DOCUMENT RESUME

ED 343 289 EC 300 968

TITLE	Hearing on the Reauthorization of the Rehabilitation Act of 1973 (As Amended). Hearing before the Subcommittee on Select Education of the Committee on Education and Labor. House of Representatives, One Hundred Second Congress, First Session (September 26, 1991).
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on Education and Labor.
REPORT NO	ISBN-0-16-037196-1
PUB DATE	92
NOTE	114p.; Serial No. 102-74.
AVAILABLE FROM	U.S. Government Printing Office, Superintendent of Documents, Congressional Sales Office, Washington, DC 20402.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC05 Plus Postage.
DESCRIPTORS	Accessibility (for Disabled); *Delivery Systems; *Disabilities; Elementary Secondary Education; Eligibility; Employment; *Federal Legislation; Hearings; Independent Living; Policy Formation; Program Effectiveness; Public Policy; *Rehabilitation; *Vocational Rehabilitation
IDENTIFIERS	Congress 102nd; Impairment Severity; *Reauthorization Legislation; *Rehabilitation Act 1973

ABSTRACT

This hearing was held to give individuals, organizations, and government officials an opportunity to express their concerns about the state of rehabilitation services in the United States and to recommend changes that would make service delivery more effective. The hearing was held in consideration of the reauthorization of the Rehabilitation Act of 1973, which is the primary legislation providing services to assist people with disabilities in preparing for, and engaging in, gainful employment and independent living. Specifically, the hearing focused on: ways to make vocational rehabilitation more of a consumer-driven system; the availability of, and access to, services and the eligibility process; the order of selection provision and assurances that individuals with the most severe disabilities are given priority for services; and the long-term outcomes of vocational rehabilitation services. The hearing contains statements from Major R. Owens (Congressional Representative from New York) and from representatives of the Massachusetts Rehabilitation Agency; the Client Assistance Program in Albany, New York; the Office of Special Education and Rehabilitative Services; the Government Accounting Office; the National Association of Rehabilitation Facilities; and the National Rehabilitation Association. (JDD)

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HEARING ON THE REAUTHORIZATION OF THE REHABILITATION ACT OF 1973 (AS AMENDED)

ED343289

HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, SEPTEMBER 26, 1991

Serial No. 102-74

Printed for the use of the Committee on Education and Labor

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Office of Educational Research and Improvement
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U.S. GOVERNMENT PRINTING OFFICE
48-462 WASHINGTON : 1992

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-037196-1

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REAUTHORIZATION OF THE REHABILITATION ACT OF 1973 (AS AMENDED)

THURSDAY, SEPTEMBER 26, 1991

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SELECT EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC.

The committee met, pursuant to call, at 10 a.m., Room 2261, Rayburn House Office Building, Hon. Major R. Owens [Chairman] presiding.

Members present: Representatives Owens, Payne, Serrano, and Ballenger.

Staff present: Maria Cuprill, Wanser Green, Laurence Peters, Theda Zawaiza, Alison Huff, Sally Lovejoy, and Molly Salmi.

Chairman OWENS. The Subcommittee on Select Eduction will come to order. Today's hearing is the first in a series that will address the challenge of consumers, providers, and advocates to craft a bill that will move individuals with disabilities toward a new era of empowerment and independence.

The subcommittee will be holding hearings here in Washington and across the country to give consumers, Federal and State administrators, disability advocates, and others an opportunity to express their concerns about the state of rehabilitation services and to recommend changes which will make service delivery more effective.

The Rehabilitation Act of 1973, as amended, is the primary legislation providing services to assist people with disabilities in preparing for, and engaging in, gainful employment and independent living. This act has provided many individuals with the opportunity to become independent and self-sufficient taxpayers. Clearly, the investment in rehabilitation is a sound one with returns that far outweigh the costs.

However, the system still has much room for improvement. A comparison of the earliest and most recent years for which information on case closures is available, reveals some startling findings. For example, while rehabilitation services are designed to serve the most severely disabled clients first, the percentage of these clients served dropped in 22 percent of the States. An overwhelming 60 percent of the States showed a decline in the percentage of successfully rehabilitated cases. This indicates a dangerous trend toward serving less people, with less challenging disabilities, and with less success.

With the advent of the Americans with Disabilities Act, there are many issues pertaining to the delivery of rehabilitation services that require renewed attention. For instance, we are looking at ways to make vocational rehabilitation more of a consumer-driven system. We're looking at the availability of, and access to, services and the eligibility process; the order of selection provision and assurance that individuals with the most severe disabilities are given priority for services; and the long-term outcomes of VR services.

Today, we will hear testimony from Federal and State administrators, as well as consumer advocates, about what is working and what must be changed. We will also hear from the Government Accounting Office which is assisting the subcommittee in its efforts to make the American rehabilitation system more responsive to the needs of individuals with disabilities in a new, post-ADA environment.

[The prepared statement of Hon. Major R. Owens follows:]

STATEMENT OF HON. MAJOR R. OWENS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Today's hearing on the reauthorization of the Rehabilitation Act of 1973 is the first in a series that will address the challenge of consumers, providers, and advocates to craft a bill that will move individuals with disabilities toward a new era of empowerment and independence.

The subcommittee will be holding hearings here in Washington and across the country to give consumers, Federal and State administrators, disability advocates, and others an opportunity to express their concerns about the state of rehabilitation services and to recommend changes which will make service delivery more effective.

The Rehabilitation Act of 1973, as amended, is the primary legislation providing services to assist people with disabilities in preparing for, and engaging in, gainful employment and independent living. This act has provided many individuals with the opportunity to become independent and self-sufficient taxpayers. Clearly, the investment in rehabilitation is a sound one with returns that far outweigh the costs.

However, the system still has much room for improvement. A comparison of the earliest and most recent years for which information on case closures is available reveals some startling findings. For example, while rehabilitation services are designed to serve the most severely disabled clients first, the percentage of these clients served dropped in 22 percent of the States; an overwhelming 60 percent of the States showed a decline in the percentage of successfully rehabilitated cases. This indicates a dangerous trend toward serving less people, with less challenging disabilities, and with less success.

With the advent of the Americans with Disabilities Act, there are many issues pertaining to the delivery of rehabilitation services that require renewed attention. For instance, we are looking at:

Ways to make vocational rehabilitation more of a consumer-driven system;

The availability of, and access to, services and the eligibility process;

The order of selection provision and assurances that individuals with the most severe disabilities are given priority for services; and

The long-term outcomes of VR services.

Today, we will hear testimony from Federal and State administrators, as well as consumer advocates, about what is working and what must be changed. We will also hear from the Government Accounting Office which is assisting the subcommittee in its efforts to make the American rehabilitation system more responsive to the needs of individuals with disabilities in a new, post-ADA environment.

Chairman OWENS. I yield to Mr. Ballenger for an opening statement.

Mr. BALLENGER. Thank you, Mr. Chairman. I'm glad to see you with us again. Today we begin the first of a series of hearings on the Rehabilitation Act which I believe will provide the subcommittee with information about programs authorized under the act. I see these hearings as an opportunity for me, a new person on this

committee, to gain an understanding of what is working well under the current system and what needs to be changed to make the system better to employ more people with disabilities.

As a businessman who employs people with disabilities in my plant in Hickory, North Carolina, I know firsthand what an important role the North Carolina Vocational Rehabilitation Agency plays in assisting businesses in hiring people with disabilities. The vocational rehabilitation program trains and prepares individuals with disabilities for employment.

The program has a well-deserved reputation for cost effectiveness, for turning many times over the Federal investment through taxes paid by disabled Americans who have been given the assistance they need to work or to return to work. Not only has this program been cost effective for the taxpayers, it has also changed the lives of millions of disabled Americans by making them independent and productive.

This reauthorization comes at a time when the traditional labor force is shrinking and employers are looking for workers to meet the changing needs of the work force. Faced with this challenge, employers are hiring nontraditional workers in order to fulfill the demands of the work force.

People with disabilities are being trained through rehabilitation programs and then placed in private or public job sectors. With the passage of the Americans with Disabilities Act, employers will look increasingly to rehabilitation systems to train and supply them with disabled workers.

I believe this reauthorization of the Rehabilitation Act must address the needs of individuals with disabilities in the post-ADA environment. Individuals with disabilities want more choice in the decisions regarding their careers. Employers want trained workers quickly in order to meet their needs.

Consumer choice and reducing the time between when an individual enters the system and when he or she is on the job are two of my top priorities for this reauthorization. I'm looking forward to listening to the comments from our witnesses today and in the future on how we can best train individuals with disabilities for our work force while educating businesses about the opportunities for them in hiring people with disabilities.

Both parties must continue to benefit from the rehabilitation program in order to make our labor force productive. Thank you, Mr. Chairman.

[The prepared statement of Hon. Cass Ballenger follows:]

STATEMENT OF HON. CASS BALLENGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I'm glad to see you're feeling better and back to lead the subcommittee.

Mr. Chairman, today we begin the first of a series of hearings on the Rehabilitation Act which I believe will provide the subcommittee with information about programs authorized under this act. I see these hearings as an opportunity for me to gain an understanding of what is working well in the current system and what needs to be changed to make the system work better to employ more people with disabilities.

As a businessman who employs people with disabilities in my plant in Hickory, North Carolina, I know firsthand the important role that the North Carolina Vocational Rehabilitation Agency plays in assisting businesses in hiring people with dis-

abilities. The vocational rehabilitation program trains and prepares individuals with disabilities for employment. The program has a well-deserved reputation for cost-effectiveness, returning many times over the Federal investment through taxes paid by disabled Americans who have been given the assistance they need to work or return to work. Not only has this program been cost effective for the taxpayers, it has also changed the lives of millions of disabled Americans by making them independent and productive.

This reauthorization comes at a time when the traditional labor force is shrinking and employers are looking for workers to meet the changing needs of their work force. Faced with this challenge, employers are hiring nontraditional workers in order to fulfill the demands of their work force. People with disabilities are meeting this demand by being trained through current rehabilitation programs and then placed in the private or public job sector. With the passage of the Americans with Disabilities Act, employers will look increasingly to the rehabilitation system to train and supply them with disabled workers.

I believe this reauthorization of the Rehabilitation Act addresses the needs of the individuals with disabilities in the post-ADA environment. Individuals with disabilities want more choice in the decisions regarding their careers and employers want trained workers quickly in order to meet their needs. Consumer choice and reducing the time between when an individual enters the system and when he or she is on the job are two of my top priorities for this reauthorization.

I am looking forward to these hearings and listening to comments from our witnesses today and in the future on how we can best train individuals with disabilities for our work force while educating businesses about the opportunities for them in hiring people with disabilities. Both parties must continue to benefit from rehabilitation program in order to make our labor force productive.

Chairman OWENS. We're pleased to welcome as our first witness the Assistant Secretary, Office of Special Education and Rehabilitative Services, Dr. Robert Davila; accompanied by Ms. Nell Carney, Commissioner, Rehabilitation Services Administration and Dr. William Graves, Director, National Institute for Disability and Rehabilitative Research.

Welcome, Dr. Davila.

STATEMENT OF ROBERT DAVILA, ASSISTANT SECRETARY, OFFICE OF SPECIAL EDUCATION REHABILITATIVE SERVICES, WASHINGTON, DC; ACCOMPANIED BY NELL CARNEY, COMMISSIONER, REHABILITATION SERVICES ADMINISTRATIVE, WASHINGTON, DC AND WILLIAM GRAVES, DIRECTOR, NATIONAL INSTITUTE FOR DISABILITY AND REHABILITATIVE RESEARCH, WASHINGTON, DC

Mr. DAVILA. Thank you, Mr. Chairman. It is a pleasure to be here before this panel to express the administration's views on reauthorization of the Rehabilitation Act of 1973. Ms. Carney, Dr. Graves, and I are here today to outline our preliminary thinking for our reauthorization proposal. We hope to have a formal proposal for you in the very near future. I will be summarizing my testimony and providing you with a more detailed testimony for the record.

This past April, President Bush made a statement of great importance to individuals with disabilities in his announcement of America 2000, a national strategy designed to help us meet the national education goals. He said that we are responsible for educating everyone among us, regardless of background or disability.

I have often been asked how special education and rehabilitation services will fit into the America 2000 strategy. I believe this is a wrong question. Rather than trying to fit our mission into education reform, I believe we actually have the opportunity to play an

important leadership role in helping the Nation meet its education goals, particularly goal five, which is directed at literacy, competitiveness and citizenship.

For this reason, I believe that must give serious attention to the reauthorization of the Rehabilitation Act of 1973, the principal legislation assisting adults with disabilities to obtain employment and independent living services. As we continue to open doors into the work place and in to the community for individuals with disabilities, it is also essential that the programs funded under the Rehabilitation Act advance the goals and capitalize on the momentum created by the Americans with Disabilities Act.

Our reauthorization proposal will improve the delivery of rehabilitation services for individuals with disabilities, especially those with the most severe disabilities. The proposal would make several modifications to State grant and certain discretionary programs providing essential services and resources. In addition, the proposal will provide for greater program accountability and consumer choice.

In order to improve accountability in the Title I program, for example, we will propose that the statute be amended to require the development of evaluation standards and performance indicators based on outcome measures. The administration is also proposing several modifications to allow for greater consumer involvement and choice in the provision of vocational rehabilitation services under the act.

First, we are proposing to authorize demonstration projects to promote increased individual choice in the selection of vocational rehabilitation services and providers. In addition, we are proposing modifications to the requirements under Title I for an Individualized Written Rehabilitation Program.

We will also propose to amend the act to ensure that any project, program, or facility providing services to individuals under the act inform those individuals seeking or receiving services of the availability of client assistance services.

We are proposing two funding changes to the State vocational rehabilitation services program under Title I of the act. First, in order to provide for greater State financial participation in the program, we will propose a phase-in increase, over 5 years, of the required State match.

Second, we propose to modify the maintenance of effort requirement that was introduced in the 1986 amendments so that a State will be required, for each fiscal year, to maintain State funding at a level comparable to the level of spending for the second previous fiscal year.

We are also proposing changes in the program authorities for independent living services under Title VII of the act, based on our administrative experience with these programs since 1979. These changes will improve consistency among the service programs under Title VII.

We will propose changes in the supported employment program to ensure the incorporation of supported employment services into the overall State vocational rehabilitation program. We will propose a new authority under the Projects with Industry program to give underemployed workers with disabilities the opportunity to ac-

quire the knowledge and skills needed to adapt to emerging technologies, work methods, and markets.

Our proposal would make technical changes to the terminology used in the act, to make it consistent with the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act, and the Technology-Related Assistance for Individuals with Disabilities Act.

To promote better coordination between VR and special education programs in providing transition services, our bill would amend the State plan provisions to require specific plans for coordination with educational agencies in the provision of transition services.

We are proposing two changes to the interpreter training authority in Section 304(d) of the act and a conforming amendment to the IDEA. We propose to eliminate the cap on the number of projects awarded for the training of interpreters for deaf individuals, in order to give the Secretary more flexibility to increase the number of projects as needs emerge.

Our proposal would also eliminate the requirement that applicants provide in-service training of teachers using funds appropriated under the IDEA. The bill would amend Section 631 of the IDEA to authorize grants for training teachers who provide instruction to individuals who are deaf.

We also propose to restructure the Special Recreation program under Section 316 to decrease the Federal contribution over the 3 year project period. By providing for declining grant awards, we would address the concern that Federal funds are not being used to initiate projects that will continue on their own after Federal support ends, and would increase the overall number of grantees at no additional Federal cost. These changes, taken together, would address some of the longstanding concerns we have expressed about this program.

The administration's bill will modify the training program's payback provisions under Section 304 to the time frame during which the student must work more closely to the number of years of student financial assistance he or she received.

Several changes are proposed to the Title II authority for the National Institute on Disability and Rehabilitation Research. Rehabilitation Research and Training Centers and Rehabilitation Engineering Centers would be required to affiliate with institutions of higher education in order to improve the research training capacity of the Centers. Like the Research and Training Centers, the Rehabilitation Engineering Centers would be required to train rehabilitation researchers to help meet the need for trained personnel in assistive technology.

The bill would also reauthorize the Helen Keller National Center Act and amend it to permit the use of functional performance assessments rather than more rigid diagnostic procedures which may not provide an accurate measure of the full capacity of a person who is deaf and blind.

We will also be proposing some changes to Section 502 for the Architectural and Transportation Barriers Compliance Board.

In closing, I would like to again stress the administration's strong support for the reauthorization of the Rehabilitation Act of

1973. It is our belief that the changes we will propose to the act will strengthen it by focusing on consumer involvement, outcomes and program accountability, themes that are at the heart of America 2000.

This is a series of our proposals. I will be pleased to respond to any questions and so will Commissioner Carney and Director Graves. Thank you very much.

[The prepared statement of Robert Davila follows:]

STATEMENT OF DR. ROBERT R. DAVILA, ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES

It is a pleasure to appear before this panel to express the administration's views on reauthorization of the Rehabilitation Act of 1973. Today, I will outline our preliminary thinking for our reauthorization proposal. We hope to have a formal proposal for you in the near future.

This past April, President Bush made a statement of great importance to individuals with disabilities in his announcement of America 2000, a national strategy designed to help us meet the National Education Goals. He said that we are responsible "for educating everyone among us, regardless of background or disability." This responsibility we share to all citizens is reflected in the National Education Goal that states that, "by the year 2000 every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship." It is also addressed in the America 2000 strategy that says "for those of us already out of school and in the work force, we must keep learning if we are to live and work successfully in today's world." A "Nation at risk" must become a Nation of students.

I have often been asked how special education and rehabilitation services fit into the America 2000 strategy. I believe this is the wrong question. Rather than trying to "fit" our mission into education reform, I believe we actually have the opportunity to play a unique leadership role in helping the Nation meet its Education Goals, particularly goal five, which is directed at literacy, competitiveness and citizenship. The lessons we have learned administering rehabilitation services and the strategies we have developed for helping individuals with disabilities to enter and stay in the work force are resources that the entire Nation can draw upon.

For this reason, I believe we must give serious attention to the reauthorization of the Rehabilitation Act of 1973—the principal legislation assisting adults with disabilities to obtain employment and independent living services. As we continue to open doors in the workplace and in the community for individuals with disabilities, it is also essential that the programs funded under the Rehabilitation Act advance the goals and capitalize on the momentum created by the Americans with Disabilities Act.

Since the enactment of the Rehabilitation Act of 1973, the percentage of individuals with severe disabilities served by State vocational rehabilitation agencies has nearly doubled. Now over two-thirds of persons rehabilitated are classified as severely disabled. Successive reauthorizations have encouraged the development of employment opportunities for individuals with disabilities, increased consumer involvement in the vocational rehabilitation process, established supported employment and independent living programs, and authorized client assistance and protection and advocacy programs.

Our reauthorization proposal will improve the delivery of rehabilitation services for individuals with disabilities, especially those with the most severe disabilities. The proposal would make several modifications to State grant and certain discretionary programs providing essential services and resources. In addition, the proposal will provide for greater program accountability and consumer choice.

In order to improve accountability in the Title I program, for example, we will propose that the statute be amended to require the development of evaluation standards and performance indicators based on outcome measures. Data would be collected annually from all State agencies and would be used by the States to manage better their own programs, and by the Secretary to identify strengths and weaknesses in program performance. We are also considering a system of incentives for States to improve their performance.

The administration is also proposing several modifications to allow for greater consumer involvement and choice in the provision of vocational rehabilitation services under the act. First, we are proposing to authorize demonstration projects to

promote increased individual choice in the selection of vocational rehabilitation services and providers. In addition, we are proposing modifications to the requirements under Title I for an Individualized Written Rehabilitation Program. These modifications would enhance the involvement of the individual with disabilities in the selection of a vocational goal and the types of services needed to reach that goal.

We will also propose to amend the act to ensure that any project, program, or facility providing services to individuals under the act inform those individuals seeking or receiving services of the availability of client assistance services.

We are proposing two funding changes to the State vocational rehabilitation services program under Title I of the act. First, in order to provide for greater State financial participation in the program, we will propose a phased-in increase, over 5 years, of the required State match. Second, we propose to modify the maintenance of effort requirement that was introduced in the 1986 amendments so that a State will be required, for each fiscal year, to maintain State funding at a level comparable to the level of spending for the second previous fiscal year. For example, the maintenance of effort level for fiscal year 1994 would be State spending in fiscal year 1992. The current provision, based on a 3 year average, has been difficult to monitor and enforce. The proposed revision will simplify this requirement and is consistent with maintenance of effort requirements in other Federal programs.

We are also proposing changes in the program authorities for independent living services under Title VII of the act, based on our administrative experience with these programs since 1978. These changes will improve consistency among the service programs under Title VII. For example, a uniform purpose section will be added to incorporate and highlight the independent living philosophy; the role of the State Council for Independent Living will be broadened to encompass these service programs; individualized independent living plans will be required under these programs; all programs will be required to provide core independent living services to individuals with severe disabilities; and uniform criteria will be used for annual reports submitted by the programs.

We will propose changes in the supported employment program to ensure the incorporation of supported employment services into the overall State vocational rehabilitation program. Most notably, Title I of the act would be amended to require that when VR agencies assess an applicant's reasonable expectation of employability for the purpose of determining eligibility, they consider the applicant's potential for supported employment.

We will propose a new authority under the Projects with Industry Program to give underemployed workers with disabilities the opportunity to acquire the knowledge and skills needed to adapt to emerging technologies, work methods, and markets.

Our proposal would make technical changes to the terminology used in the act, to make it consistent with the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act, and the Technology-Related Assistance for Individuals with Disabilities Act. First, the administration's bill would replace the term "handicap," in all its various forms, with the appropriate form of the word "disability" throughout the Rehabilitation Act. In addition, the bill would update terminology in Title I of the act with regard to "rehabilitation engineering services" by replacing that term with "assistive technology devices and services."

To promote better coordination between VR and special education programs in providing transition services, our bill would amend the State plan provisions to require specific plans for coordination with educational agencies in the provision transition services.

We are proposing two changes to the interpreter training authority in section 304(d) of the act and a conforming amendment to the IDEA. We propose to eliminate the cap on the number of projects awarded for the training of interpreters for deaf individuals, in order to give the Secretary more flexibility to increase the number of projects as needs emerge. our proposal would also eliminate the requirement that applicants provide inservice training of teachers using funds appropriated under the IDEA. The bill would amend section 631 of the IDEA to authorize grants for training teachers who provide instruction to individuals who are deaf.

We also propose to restructure the Special Recreation Program under section 316 to decrease the Federal contribution over the 3 year project period. By providing for declining grant awards, we would address the concern that Federal funds are not being used to initiate projects that will continue on their own after Federal support ends, and would increase the overall number of grantees at no additional Federal cost. Applicants would be required to demonstrate how Federal assistance would enable them to continue the proposed project after Federal assistance ends and describe their plans to evaluate their projects and disseminate the results. These

changes, taken together, would address some of the long-standing concerns we have expressed about this program.

The administration's bill will modify the training program's payback provisions under section 304 to tie the time frame during which the student must work more closely to the number of years of student financial assistance he or she received. The proposed change would reduce the burden of tracking students, would provide for greater equity among scholarship recipients, and would accelerate the employment of graduates in State or nonprofit rehabilitation agencies.

Several changes are proposed to the Title II authority for the National Institute on Disability and Rehabilitation Research. Rehabilitation Research and Training Centers and Rehabilitation Engineering Centers would be required to affiliate with institutions of higher education in order to improve the research training capacity of the Centers. Like the Research and Training Centers, the Rehabilitation Engineering Centers would be required to train rehabilitation researchers to help meet the need for trained personnel in assistive technology.

The bill would also reauthorize the Helen Keller National Center Act and amend it to permit the use of functional performance assessments rather than more rigid diagnostic procedures which may not provide an accurate measure of the full capacity of a person who is deaf and blind.

We will also be proposing some changes to section 502 for the Architectural and Transportation Barriers Compliance Board.

In closing, I want to again stress the administration's strong support for the reauthorization of the Rehabilitation Act of 1973—an act that can not only help us address the vocational rehabilitation and independent living needs of individuals with disabilities, but can provide strong examples for broader reforms in workforce training and retraining to help us meet the National Education Goals. The Rehabilitation Act has made great contributions to the independence, integration, and financial stability of many individuals with disabilities. It is our belief that the changes that we will propose to the act will strengthen it by focusing on consumer involvement, outcomes and program accountability; themes that are at the heart of America 2000.

I would be pleased to answer any questions you might have.

Chairman OWENS. Thank you very much, Mr. Secretary. There are a number of questions that we have. Because of the time, perhaps we might want to provide you with a list of the questions. You might want to answer some of them in writing. But just to let the public know and to have it on the record, I'm going to read the questions. You might want to comment on some and leave the rest for comment in writing.

First, according to a recent GAO report, the administration, in monitoring State programs, does not assess States' determinations about whether they can serve all applicants. Therefore, they must use order of selection. What policy changes in monitoring and evaluation of State programs are proposed to address this lack of Federal guidance?

Second, careers represents a major philosophical difference between current rehabilitation practice and the next dedicated nondiscrimination of the work force as set forth in ADA. How does RSA plan to make this shift?

Third, what alternatives to closure is RSA studying? When will alternatives to this quality assurance method be implemented? On the current approach, how will quality assurance be measured?

Fourth, does the administration recognize any viability in the voucher system notion? Could this be an alternative that will stimulate competition and quality from the private sector as well as substantially reduce administrative costs? I certainly hope you might address that one publicly.

I'll stop at this point. Are there any of those four that either you or one of your associates care to comment on or would you prefer to submit answers in writing later?

Mr. DAVILA. Thank you, sir. I will make a few brief comments, but can assure you we will come back to you with more detailed answers in writing. The Commissioner, of course, may wish to interject with her comments with respect to the order of selection situation in providing rehabilitation services.

[The questions and responses are printed at the end of the hearing on pages 100–109.]

We are in general agreement with the findings of the GAO. As a matter of fact, the Commissioner has already begun to respond to some of these concerns even before the report came to us. We are revising the RSA policy manual. And this policy manual will have a chapter on order of selection, which then can provide more detailed guidance to the States with respect to how they can issue an order of selection more properly and appropriately.

In addition to that, we will provide improved technical assistance, insuring technical assistance to the regional offices so there can be more uniform understanding of the requirements and the process for implementing order of selection. So we are moving ahead with that. We are in general agreement with the GAO findings.

Do you wish to add anything to this response, Commissioner?

Chairman OWENS. Or any other questions?

Ms. CARNEY. Mr. Chairman, you indicated an interest in our making a public statement about the fourth question which speaks to choice and vouchering in the vocational rehabilitation program. We believe that in our proposed reauthorization legislation, we have addressed the issue of choices in two ways.

Number one, in demonstration projects which would give us some sense of how choices would fit into the current system of service delivery and whether indeed it is a viable process for delivering rehabilitation services that would allow us to continue to hold grantees accountable for the provision of services as it is described in the Rehabilitation Act. We propose to do that in demonstrations of choice.

The other area in which we believe there is a significant opportunity to provide choice for individuals who are seeking vocational rehabilitation services is in strengthening the language that speaks to the development of the individualized written rehabilitation program which is an essential element of the total delivery of vocational rehabilitation services.

It is at this point that the person with the physical or mental disability should be allowed to make choices based on the information that has been accumulated in the evaluation process, choices about the kind of career that the individual will pursue, choices about the training that the individual will pursue, choice about where that training occurs, and a number of other choices that we will elaborate on when we respond to the question in writing.

We believe that these are the two areas that will give us the best predictions of how choice fits into the overall delivery of vocational rehabilitation services. As a person with a severe disability who has taken advantage of the vocational rehabilitation program, I personally recognize the value of choice and believe that it has a much broader meaning than just choice of purchase of service, but

it also means a choice in where I live, choice in where I work, and choice about my participation in the community.

Chairman OWENS. Any further comments?

Mr. DAVILA. I think the Commissioner has given you a good overview of our plans for choice. We are in full support of giving consumers and clients as much involvement as a program can accommodate because the principle is to continue to empower them.

So we are really planning for demonstration programs that will let us to get all kinds of options that may be available. We do lack at this point experience and data for implementation of choice. But I believe, though, with the experience we will gain from demonstrations, that we will be in a very good position to really promote this.

Chairman OWENS. Mr. Secretary, in your testimony, you indicated a number of proposals and a number of initiatives that will be taken. We certainly appreciate that. We think you understand, as we understand, that the ADA bill was the skeleton. Now we need to put the meat on the skeleton.

This rehabilitation reauthorization, you know, like none before, is being watched by people who have very high expectations as to where we're going from here. A large part of making ADA a reality will take place in the way we handle reauthorization of this act. So I appreciate the fact that you are taking those initiatives. You've touched on many of the questions we're asking.

I just would like to go into some things in a little more detail. This is the last question I would like some comment on at this time. With respect to independent living centers, I'd like to know the status of the independent living center indicators.

Please verify the following information regarding the development of indicators for the Title VII, Part B, centers and the subsequent open competition for Part B funding. There was widespread agreement that there would be no new competition for centers without evaluation and no evaluation without the indicators based upon the standards approved by the National Council on Disabilities.

I am assuming that the indicators will be field tested and a date for the competition will be set to ensure that centers for independent living will have sufficient time to respond to them. In any case, open competition will not occur in fiscal year 1992-93. I also assume that the Commissioner will conduct on-site compliance reviews prior to open competition as required by law. Are these assumptions correct?

Mr. DAVILA. Standards were approved 1985. We have reviewed draft indicators and the related standards with OMB. Some were found to be explained in the statute. Others were found to be hard to address through regulation.

So we have been doing complete review of the standards indicators to make them more appropriate for implementation.

We are negotiating with OMB on the proposed rules we are making so that we can publish the standards and indicators hopefully by the end of October. We received public comment, and we are moving ahead with them. It's good to have them ready for peer testing, but I appreciate your concern for——

Chairman OWENS. Could you repeat that? What are you going to have by the end of October?

Mr. DEVILA. We hope to have them ready for publishing—the proposal we're making—is that right, Commissioner?

Ms. CARNEY. The draft indicators, Mr. Chairman, are currently in clearance in the Department. When that clearance is completed, we hope to receive from OMB clearance so that we may publish a notice of proposed rulemaking. We cannot predict the date that that notice will be published.

You are correct in your assumption, sir, that we will conduct on-site reviews of the existing independent living centers and base that review on the indicators once they are completed and published as final regulations. You may also assume that we are currently conducting on-site reviews for the independent living centers.

One of our hopes is that we will be able to publish a national profile of the independent living centers, Part B, from the on-site reviews that we've conducted in this past year.

Chairman OWENS. So, are we correct in our assumption that the open competition will not take place this year?

Mr. DAVILA. This is an issue we will be reviewing and taking into consideration. Of course there are many points to be considered in making that kind of decision, but we are willing to be considerate of the concern that was shared with us that we need to get those indicators and standards in place.

Chairman OWENS. Thank you. Mr. Ballenger?

Mr. BALLENGER. Thank you, Mr. Chairman. I was glad to hear your explanation of choice, since in our education committee, it's become a word that may or may not be accepted by everybody. But in your particular case, I'm glad to hear it doesn't quite mean the same thing that it did in the other education areas.

I wonder if you could elaborate on the reasons why the administration is asking for an increase in the State match. What kind of money or what savings would that generate?

Mr. DAVILA. Many Federal/State matches have been 50/50. The Rehabilitation Federal/State match is about 80/20. We believe that increasing the State match will increase the involvement of States and generate greater interest in outcomes. It's very much in line with accountability because I think it will increase accountability in the States.

However, we also want to be sensitive to economic considerations. So the match change that we're proposing will be gradually implemented over a period of 5 years. We are now talking about a decrease, nothing—another type of change which eventually will be no more than 75/25. It will still be a very good match considering that one State dollar will bring three Federal dollars. It's still a very good program.

Mr. BALLENGER. Having served on the Budget Committee of the Human Resources Department of the State of North Carolina, I recognize all the great and wonderful things that the Federal Government does for the States, especially with ADA coming along and all the additional responsibilities that will be handed to the States but at the same time taking away money. That's the reason I asked the question.

Ms. CARNEY. Congressman Ballenger, the philosophy behind the increase of State match is not to save money but to increase the

amount of money that goes for the training and related services for people with physical and mental disabilities. In an era in our history when there is serious economic downturn in a number of the States, we believe that unless we are rather forceful, we will not be successful in assuring that our programs for the physically and mentally disabled receive the same consideration as some other issues within the States. That's really the philosophy behind increasing the State match.

Mr. BALLENGER. As a businessman, I wonder if you might have any way of figuring out a method to reduce the time between when a person enters the vocational rehabilitation system and when he actually gets a job. Do you have any ideas along those lines?

Mr. DAVILA. Well, we believe, you know, that our proposal to identify standards and develop indicators for the Title I basic VR programs can result in indicators that will indicate the time required to bring a person into service. We believe we will be able to address that issue through the standards and indicators for the VR program.

Mr. BALLENGER. Thank you, Mr. Chairman.

Chairman OWENS. Mr. Serrano? I'm sorry, do you want to elaborate on that one?

Mr. SERRANO. I have no questions.

Ms. CARNEY. I was just going to say in expediting the process for the rehabilitation service delivery and entrance into competitive employment will be enhanced by the leadership that RSA is providing through the promulgation of policies which speak to case management, the determination of eligibility and the other processes.

We also believe that we're going to expedite that process by examining the training that we provide to vocational rehabilitation counselors prior to entering the service delivery field and after entering the service delivery field update and short-term training.

Chairman OWENS. Thank you. My colleague, Mr. Serrano, says he has no questions. We look forward to your response in writing to a set of written questions so we may enter that into the record along with your written testimony. Thank you very much, Mr. Secretary.

Mr. DAVILA. Thank you, sir.

Chairman OWENS. Our next witness, Mr. Franklin Frazier, Issue Area Director, Government Accounting Office, is accompanied by Ms. Anne Heck, Issue Area Assistant Director, and Mr. Bob Coughenour, Senior Evaluator, General Accounting Office.

STATEMENT OF FRANKLIN FRAZIER, ISSUE AREA DIRECTOR, GOVERNMENT ACCOUNTING OFFICE, WASHINGTON, DC; ACCOMPANIED BY RUTH ANN HECK, ISSUE AREA ASSISTANT DIRECTOR, GOVERNMENT ACCOUNTING OFFICE, WASHINGTON, DC, AND BOB COUGHENOUR, SENIOR EVALUATOR, GOVERNMENT ACCOUNTING OFFICE, REGIONAL OFFICE, DETROIT, MICHIGAN

Mr. FRAZIER. Good morning, Mr. Chairman, members of the committee. The first statement that I would like to make is that in our testimony today, we use the term handicap. We noticed in the assistant director's statement earlier today that they are going to

change the term throughout the act, the Rehabilitation Act, to the word disabilities. We used the term to be consistent with what's in the act. In the report that we're going to send you, Mr. Chairman, we'll make that change.

As you've noted, I have with me Ruth Ann Heck. She is our assistant director for elementary and secondary education. I also have with me Robert Coughenour. He is out of our Detroit office. He is the evaluator in charge of the work on the Rehabilitation Services Act. We're pleased to be here to discuss our work on the Rehabilitation Act of 1973.

You asked us to review the implementation of the act's order of selection provision. As you know, Mr. Chairman, program funding for vocational rehabilitation is sufficient to serve only a small part of those potentially eligible for services. For example, in 1989, the program served about 7 percent of the estimated 13 million persons with handicaps who were potentially eligible.

Recognizing the possibility that not all could be served, the 1973 act required States to focus services on individuals with severe handicaps. When States are unable to serve everyone who applies and who is eligible for the program, the act requires States to establish an order of selection procedure to give priority to those with the most severe handicaps.

As you can see from our chart, since the 1973 legislation, the number of clients served has declined while the percentage of clients with severe handicap has increased. For example, the number of clients served has dropped almost 25 percent, from 1.2 million in 1976 to 929,000 in 1989.

During the same period, the number of clients with severe handicap increased about 12 percent, from 556,000 to 625,000. On average, 68 percent of the total active 1989 caseload was comprised of clients with severe handicaps, compared to 45 percent back in 1976. But the percentage varied greatly from State to State, ranging from 40 percent in a couple States to over 95 percent in a couple States.

At your request, Mr. Chairman, we conducted a multi-State review to determine: one, why most States do not use order of selection; two, how some States have implemented the provision; and three, how the department oversees the program. In our review of State practices, we found that nationally more than half the States have never used order of selection.

Between fiscal years 1973 and 1989, 30 States have not had any experience with order of selection. Only 12 had limited experience with order of selection. Mr. Chairman, the official in 11 of those States with nonorder of selection we visited told us they did not need to implement the order of selection because they could serve all the eligible applicants.

Some State and Federal officials expressed concern about the impact of the use of order of selection. For example, these officials were concerned that serving a high percent of clients with severe handicaps could significantly decrease the overall number of people served.

Other officials expressed concerns about the higher costs associated with serving individuals with severe handicaps. For example, one program director in a nonorder of selection State said that he

must show the State legislature a return on his investment. Therefore, the inexpensive, successful rehabilitations of clients with nonsevere handicaps is needed to balance against the more costly, longer term services provided to clients with severe handicaps.

Similarly, a rehabilitation services administration official said it is usually necessary to strike a balance between serving a few high cost clients or a larger number of low cost clients. In the nine order of selection States we visited, officials said order of selection is an effective procedure to prioritize services to those with severe handicaps. Most agree it's an effective way to manage limited resources.

Some State officials said that resources are always limited. In their opinion, all States should be operating under the order of selection criteria. Although categories differed, order of selection followed similar practices with regard to providing purchased and nonpurchased service.

Nonpurchased services, those provided directly by vocational rehabilitation staff such as guidance, counseling and placement, are available to all clients regardless of priority category. The more expensive purchase services are made available first to the clients with severe handicaps. Purchase services may include vocational and other training services, interpreter services for the deaf, reader services for the blind, and physical and mental restoration services.

As shown, Mr. Chairman, on our other chart, program data show that the use of order of selection is associated with caseloads that have a higher percentage of clients with severe handicap. For example, from 1976 through 1989, caseloads in order of selection States contained a substantially higher percentage of people with severe handicaps, 78 percent versus 57 percent.

Sufficient data were not available to us to determine whether the differences were attributable solely to order of selection or to other efforts underway to focus on those with severe handicaps. Officials in most order of selection States, however, said order of selection was largely responsible for increasing the percentage of clients with severe handicaps.

The Rehabilitation Services Administration has not provided adequate guidance and oversight to assure appropriate implementation of the order of selection requirements. In oversight of State programs, the administration does not assess whether States have accurately determined whether they are serving all who apply.

Further, the administration's regional offices are uncertain about whether order of selection is required and whether the administration could mandate its use. Agency officials acknowledge that order of selection is still poorly understood, and the guidance in the current manual is unclear and outdated.

The current program manual was written in 1975 and is currently being revised. One official said the administration has given order of selection little priority over the last decade, in part because the Department of Education has viewed its relationship with States as a partnership and has left many program decisions to the State's discretion.

In conclusion, Mr. Chairman, the administration has not given order of selection much attention over the years. But the need for effective ways for States to set service priority is likely to intensify as the number of individuals with severe handicaps increases.

In our view, the administration needs to provide: one, clearer guidance concerning if and when States need to implement order of selection; two, increased monitoring, especially to ensure that States' decisions about whether to implement order of selection are based on the appropriate criteria; and three, leadership to help States learn how the order of selection has been effectively implemented elsewhere.

Mr. Chairman, this concludes our prepared remarks. We'll be happy to respond to your questions at this time.

[The prepared statement of Franklin Frazier follows:]

United States General Accounting Office

GAO Testimony

For Release
On Delivery
Expected At
10:a.m. EST
Thursday,
September 26, 1991

VOCATIONAL REHABILITATION

Improved Federal Leadership Could Help States Focus Services on Those With Severe Handicaps

Statement of
Franklin Frazier, Director of
Education and Employment Issues
Human Resources Division

Before the
Subcommittee on Select Education
Committee on Education and Labor
House of Representatives

GAO/T-HRD-91-10

GAO Form 160 (12/87)

SUMMARY OF TESTIMONY BY FRANKLIN FRAZIER ON NEED FOR IMPROVED FEDERAL LEADERSHIP TO HELP STATES FOCUS SERVICES ON THOSE WITH SEVERE HANDICAPS

Program funding for vocational rehabilitation is sufficient to serve only a small part of those potentially eligible. In 1989 the program served about 7 percent of the estimated 13.4 million persons with handicaps who were potentially eligible. In addition, program officials expect that the number of Americans with handicaps will continue to grow as the population ages and medical technology prolongs the lives of the seriously injured. The Rehabilitation Act of 1973 recognized the possibility that not all individuals with handicaps could be served and required states to focus services on those with severe handicaps. Under the order-of-selection provision, Congress further required states which are unable to provide services to all eligible applicants to give individuals with the most severe handicaps first priority for rehabilitation services.

GAO's review of states' use of order of selection found:

MOST STATES HAVE NOT IMPLEMENTED ORDER OF SELECTION. Nationally, more than half the states have never used order of selection. Officials in the 11 non-order-of-selection states GAO visited said they were in compliance with the act because they could serve all eligible applicants. However, many states use caseload management techniques--such as reducing outreach efforts--to limit applicants when resources are not available to serve additional clients. Also, some federal and state officials expressed concern that serving high numbers of clients with severe handicaps could result in significantly reducing overall client caseloads.

ORDER-OF-SELECTION STATES FIND THE PROCEDURE USEFUL. Nine states have used order of selection for at least two consecutive years between 1976 and 1989. Officials we spoke with in these states found it to be a fair and manageable way to set priorities for limited resources. Overall, these states have a higher percentage of clients with severe handicaps in their caseload than do non-order-of-selection states.

GUIDANCE AND MONITORING SHOULD BE IMPROVED. The Rehabilitation Services Administration does not provide adequate guidance and oversight to help states in implementing order of selection. For example, the agency does not assess states' determinations of whether they need to implement order of selection. Also, regional officials differed in their interpretations of the provision's requirements.

Mr. Chairperson and Members of the Subcommittee:

I am pleased to be here today to discuss the results of our work on the Rehabilitation Act of 1973. You asked us to help in the reauthorization process by reviewing implementation of the act's order-of-selection provision.

As you know Mr. Chairperson, program funding for vocational rehabilitation is sufficient to serve only a small part of those potentially eligible for services. In 1989 the program served about 7 percent of the estimated 13.4 million persons with handicaps who were potentially eligible. Moreover, officials expect that the number of Americans with handicaps will continue to grow as the population ages and medical technology prolongs the lives of the seriously injured.

Recognizing the possibility that not all could be served, the 1973 act required states to focus services on individuals with severe handicaps.[1] Under the act's order-of-selection provision, Congress further required that when a state is unable to serve everyone who applies and is eligible for the program, it must give first priority to those with the most severe handicaps. Order of selection can be implemented in a variety of ways, but usually counselors assign each client to one of several priority categories, reserving the highest for those with severe handicaps. Services which must be purchased for clients from other providers generally remain unavailable to clients in the

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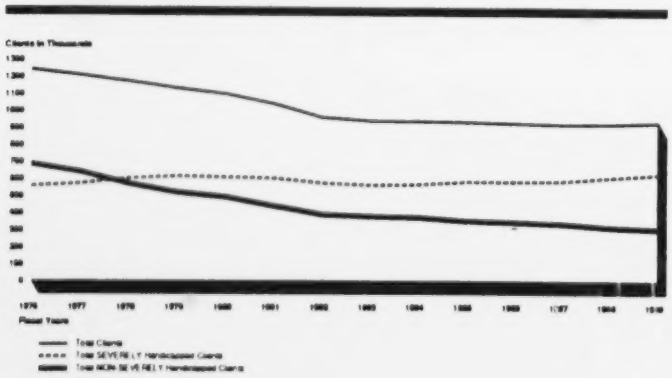
[1]According to the 1973 act, a person with a severe handicap is one who has a severe physical or mental disability that seriously limits functional capacity for employment and is expected to require multiple vocational rehabilitation services over an extended period of time.

lowest priority categories because of limited resources, although all clients may receive non-purchased services.[2]

Since the 1973 legislation, the number of clients served has declined, while the percentage of clients with severe handicaps has increased. Nationwide, the number of clients served has dropped almost 25 percent since 1976, from 1.2 million to 929,000 in 1989. During the same period the number of clients with severe handicaps increased about 12 percent from 556,000 to 625,000. On average, 68 percent of the total active 1989 caseload was comprised of clients with severe handicaps, up from 45 percent in 1976. (See fig. 1.) But the percentage varied greatly from state-to-state, ranging from around 40 percent to over 95 percent.

Figure 1: Clients Served Nationwide (Fiscal Years 1976-1989)



[2]See page 7 for a discussion of purchased and non-purchased services.

At your request, Mr. Chairperson, we conducted a multi-state review to determine (1) why most states do not use order of selection, (2) how some states have implemented the provision, and (3) how the Department of Education ensures that states comply with the order-of-selection provision. We did not review other approaches states may use to meet the act's intent to focus services on those with severe handicaps, nor did we attempt to assess states' compliance with the act's order-of- selection requirement.

During our review we visited 20 state rehabilitation agencies and selected local offices in some of those states. Nine states we visited were the only ones to have used order of selection for at least 2 consecutive years between 1976 and 1989. These states, which we call order-of-selection states were: Georgia, Illinois, Kentucky, Maine, Massachusetts, Pennsylvania, Tennessee, Vermont, and West Virginia. We also visited 11 of the states with little or no experience with order of selection. These states, which we call non-order-of-selection states, were: California, Florida, Louisiana, Michigan, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, and Texas.

To determine the relationship that order of selection may have to the percentage of severely handicapped in state caseloads, we analyzed state caseload data for fiscal years 1976 through 1989, the latest year for which data were available. These data are collected and maintained by the Rehabilitation Services Administration in the Department of Education.

MOST STATES HAVE NOT IMPLEMENTED ORDER OF SELECTION

Few states have implemented order of selection to any great extent. In our review of state practices, we found that nationally more than half the states have never used order of selection. Between fiscal years 1973 and 1989, 30 states had

not had any experience with order of selection; 12 had limited experience.

Officials in the 11 non-order-of-selection states we visited said they did not implement order of selection because they could serve all eligible applicants. Additionally they raised concerns about implementing order of selection; these include administrative burden--for example, in reeducating referral sources as to who could receive what type of services--and possible inequity in denying purchased services to clients with less severe handicaps. Both federal and state officials also raised concerns about the impact order of selection could have on overall caseloads.

States said they were serving all eligible applicants

The 11 non-order-of-selection states we visited said they could serve all eligible applicants and therefore were in compliance with the law without using order of selection. While we did not try to assess state compliance, we did find that states use a variety of caseload management techniques, for example decreasing outreach, to decrease the number of applications received. Although not necessarily intended to, these techniques make it appear that demand is being met and order of selection is not needed when, in fact, people who want and may be eligible for services are waiting to apply.

To the extent they reduce or limit the number of individuals who apply for services, caseload management practices make it difficult to determine the need for order of selection. For example, counselors in 5 of the 11 non-order-of-selection states eliminated or reduced outreach efforts when demand exceeded resources. We also found some local offices in 5 states had deferred applications or purchase of services for several weeks because of funding shortages. A local office in one state had a

list of 200 people who were waiting to submit applications; at an office in another state the wait could be as long as 6 weeks to submit an application.

Concerns about the impact of order of selection

Some state and federal officials were concerned that serving a high percent of clients with severe handicaps could significantly decrease the overall number of people served. In addition, if the percentage of clients with severe handicaps is very high--it's over 90 percent in one state--relatively few people with non-severe handicaps receive any services from the Vocational Rehabilitation Program. Others are concerned about the higher cost associated with serving individuals with severe handicaps.

The program director in a non-order-of-selection state said that he must show the state legislature a return on its investment; that is, programs need the inexpensive, successful rehabilitations of clients with non-severe handicaps to balance against the more costly, longer-term services provided to clients with severe handicaps. A Rehabilitation Services Administration official also cited the sometimes conflicting nature of order of selection and the traditional public policy trade-offs that must be made between the number of individuals served with severe and non-severe handicaps. Although the act intends that services to individuals with severe handicaps not be denied due to cost, this headquarters official said it is usually necessary to strike a balance between serving a few high-cost clients or a larger number of lower-cost clients.

These officials' concerns notwithstanding, congressional intent seems clear: individuals with severe handicaps are to receive priority and not be denied services in spite of the higher costs

associated with serving them. Although it is not clear if Congress foresaw a program serving almost entirely individuals with severe handicaps, as is the case in a few states now, in most states individuals with severe handicaps comprise well under 90 percent of the caseload. In fact, the wide variation among states in the caseload percentages that are severely handicapped indicates a great diversity in the success states have had in focusing services on these individuals.

ORDER-OF-SELECTION STATES FIND THE PROCEDURE USEFUL

In the nine order-of-selection states we visited, officials said order of selection is an effective procedure to prioritize services to those with severe handicaps, and most agree it is an effective way to manage limited resources. Some state officials said that resources are always limited and, in their opinion, all states should be operating under order of selection.

Further, officials in the nine order-of-selection states did not share the concerns of the non-order-of-selection states about burden and inequity. Officials noted, for example, that (1) administrative burden was minimal and (2) the non-purchased services provided to individuals with less severe handicaps were very important.

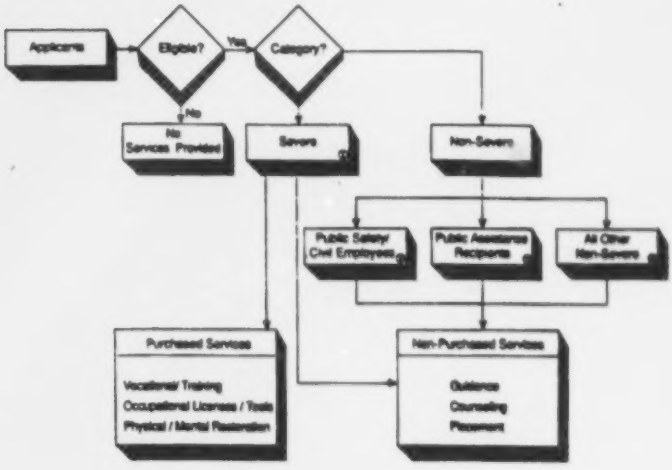
One key factor that may have reduced problems in the order-of-selection states was most of these states implemented it continuously rather than going on and off as resources fluctuated. The nine order-of-selection states have used the provision for 3 to 12 years; all but one have continued to use it for program year 1991. Most of these states envision continued long-term use of order of selection.

Order-of-selection states established different priority categories but followed similar patterns with regard to

provision of purchased and non-purchased services. The act requires that states give individuals with severe handicaps first priority for service. States used a variety of categorizations in establishing priority systems. One state's priority categories are described in figure 2. In this example, those with severe handicaps are in the highest priority category. Other categories, in descending order were: public safety officers, public assistance recipients, and all others.

Although categories differed, order-of-selection states followed similar practices with regard to providing purchased and non-purchased services. Non-purchased services, those provided directly by vocational rehabilitation staff--guidance, counseling, and placement--are available to all clients regardless of priority category. Purchased services are made available first to the clients with severe handicaps. Purchased services may include vocational and other training services, interpreter services for the deaf, reader services for the blind, occupational licenses and tools, and physical and mental restoration services. Three states--Illinois, Maine, and Pennsylvania--had adequate resources to purchase services only for their clients with severe handicaps. The remaining six states could provide purchased services to some of their clients with non-severe handicaps.

Figure 2: Order-of-Selection Priority Categories in One State



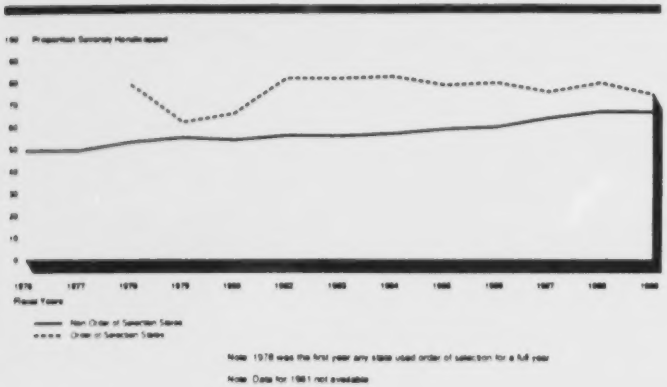
ORDER-OF-SELECTION STATES SERVE A HIGHER PERCENTAGE OF CLIENTS WITH SEVERE HANDICAPS

Program data showed that use of order of selection is associated with caseloads that have a higher percentage of clients with severe handicaps.[3] For example, from 1976 through 1989, caseloads in order-of-selection states contained a substantially higher percentage of people with severe handicaps (78 percent) than did caseloads in non-order-of-selection states (57 percent). (See fig. 3.) Sufficient data were not available to determine

[3]To determine if there is a correlation between order of selection and caseload composition, we used data for new cases because order of selection is a procedure that affects client intake practices. Caseloads presented here are for new clients for each year and in aggregate.

whether the difference was attributable solely to order of selection or also to other efforts underway to focus on those with severe handicaps. Officials in most order-of-selection states, however, said order of selection was largely responsible for increasing the percentage of clients with severe handicaps.

Figure 3: Severely Handicapped Served in States with Order of Selection Compared with Non-Order States



GUIDANCE AND OVERSIGHT SHOULD BE IMPROVED

The Rehabilitation Service Administration has not provided adequate guidance and oversight to assure appropriate implementation of order of selection.

The agency does not effectively monitor implementation of order of selection. In oversight of state programs it does not assess state decisions about whether to implement order of selection;

that is, it does not assess whether states have accurately determined whether they are serving all who apply. Further, even among the Administration's regional offices, which monitor state programs, opinions differed as to when order of selection is required and whether the Administration could mandate its use.

Further, the Rehabilitation Services Administration has not taken a leadership role in helping states implement order of selection. Officials in non-order-of-selection states were not familiar with the successful approaches used in the order-of-selection states. The Rehabilitation Services Manual encourages exchanges among states as well as with the Rehabilitation Services Administration on procedures and policies related to order of selection. We found no evidence, however, that the Administration had taken any steps to foster such information exchanges, although some states have initiated information exchanges on their own. In fact, officials in one non-order-of-selection state asked us to suggest states to call for assistance in addressing their questions.

Agency officials acknowledged that order of selection is still poorly understood and the guidance in the current program manual is unclear and outdated. The current program manual was written in 1975 and is currently being revised. One official said the Administration has given order of selection little priority over the last decade, in part because the Department of Education has viewed its relationship with states as a partnership and has left many program decisions to state discretion.

CONCLUSIONS

In conclusion, Mr. Chairperson, implementation of order of selection across states suffers from lack of clear guidance and leadership from the Rehabilitation Services Administration. The potential demand and limited resources for vocational

states would need to set priorities for services at some time. But in our review of state practices, we found that more than half the states have never used order of selection.

Order of selection is one way some states have found to serve more individuals with severe handicaps. Officials in all states with at least 2 years of continuous use found that order of selection helped them manage their resources; most also saw it as an important factor in increasing the proportion of clients with severe handicaps. Further, officials in these states generally did not find the provision difficult to administer.

The Rehabilitation Services Administration has not given order of selection much attention over the years. But the need for effective ways for states to set service priorities is likely to intensify as the numbers of individuals with severe handicaps increase. In our view, the Administration needs to provide (1) clearer guidance concerning if and when states need to implement order of selection, (2) increased monitoring, especially assuring that state decisions about whether to implement order of selection are based on appropriate criteria, and (3) leadership to help states learn how order of selection has been effectively implemented.

This concludes my prepared remarks. I will be happy to answer any questions you or other members of the Subcommittee may have.

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Chairman OWENS. Thank you, Mr. Frazier. We ought to be shocked that noncompliance seems to be the order of the day. What did the half of the States that have never used order of selection—what did they say? They didn't know that was part of the law and the regulations? They didn't know, or they knew and they didn't care? How did they explain that they had never used——

Mr. FRAZIER. We heard a variety of reasons as to why they were not using it. One reason was that they said they could serve everyone. Therefore, they were not——

Chairman OWENS. I know what they said. Does the law mean anything? I mean, did they know it was a law and they were not complying with the law?

Mr. FRAZIER. I think that they knew what the law required. But they said that they used other methods such as the other ways they claim that they didn't need it.

Chairman OWENS. So they were practicing civil disobedience?

Mr. FRAZIER. No. I don't quite think that's civil disobedience. I wouldn't go that far. But they were saying things to us like they could better target the outreach efforts. They could inform their referral services. They could let everyone know in their States that their philosophy was to serve the severely handicapped first.

Therefore, the severely handicapped would be the people who would be coming in rather than those who were not severely handicapped. But there is no doubt, Mr. Chairman, that the case management system that States were using could affect the demand for applications when you went back to look at who was being served.

Chairman OWENS. Well, some stated truthfully to you that the severely handicapped mean higher cost, fewer people served at higher cost. They weren't impressed at State legislatures as to larger number of people being served. They said they were not obeying the law because it just didn't help their statistics. Is that correct?

Mr. FRAZIER. They basically said to us that they had a concern about the philosophical question about serving the most costly severely handicapped individuals. Clearly, they said one reason was they needed to prove to their legislation that this program was effective by having a larger count of people served. That's correct.

Chairman OWENS. All that is bad enough, but would you care to elaborate on the statement you made that regional office directors and regional office personnel were uncertain about the law, about—what do they mean about uncertain? They are Federal officials. They have copies of the law, and they are uncertain about it?

Mr. FRAZIER. On that particular statement, I think the source of the uncertainty comes about, as I mentioned due to the fact that the manual has been in being since 1975. It has not been revised.

Chairman OWENS. The manual was full of ambiguities?

Mr. FRAZIER. That's correct.

Chairman OWENS. Ambiguities with what respect, as to what the law was or as to how vigilant the department would be in enforcing the law? What are the ambiguities in the manual?

Mr. FRAZIER. About the criteria for when to enforce the order of selection—when is it that case management or controlling the number of cases that walk through the door steps across the law on order of selection. I think that there is another thing, Mr. Chair-

man, that they are really struggling with—the philosophical argument about who to serve.

Chairman OWENS. They're struggling with the philosophical argument on the basis of natural law?

Mr. FRAZIER. No comment.

Chairman OWENS. The law has stated it already. What is the struggle? They are going to comply or not comply. They're saying there's a higher law which supercedes the Federal law and they will deal with the higher law?

Mr. FRAZIER. I really think that there's that struggle.

Chairman OWENS. In your opinion, what has to happen to make them obey the law? If the law is impractical, stupid, or doesn't make any sense, we ought to change the law.

Mr. FRAZIER. Mr. Chairman, I think that the law is very clear. Regardless of the cost for serving the more severely handicapped, the law intends or Congress intends for that to happen. I think for that law to be put into operation, the administration needs to take a leadership role in implementing that law.

That includes going out, giving States good guidance on how to implement it, providing technical assistance to them and then, last but not least, monitoring their efforts to implement the law, and then taking the necessary action to make sure they do so.

Chairman OWENS. This is kind of a philosophical question. You don't have to answer it if you don't want to. In view of the fact that the Americans with Disabilities Act has been passed now and there's a whole sense of empowerment among people with disabilities, you think that the key to this question, the key answer to getting compliance is with the strengthening of consumer groups and giving more power and more authority to consumer groups in the States?

Mr. FRAZIER. More power to the consumer groups?

Chairman OWENS. The severely disabled is one consumer group. Obviously, they need more power, I mean, as a consumer group—not obviously. I'll give you the answer. In your opinion, having looked at it objectively, do you think consumer groups would have any bearing on getting compliance into law?

Mr. FRAZIER. Well, I think that it may, only in this regard, Mr. Chairman: that we really believe as the ADA goes along, we will find that the demand for vocational rehabilitation probably will increase. As the barriers come down for discrimination against the handicapped individual or as better transportation is made available and access to buildings improved, the demand certainly for vocational rehabilitation probably will increase.

So I think that as the demand increases, then I believe that the States who are not using the order of selection criteria will in some way be forced to think about it a little bit more in the advent of the ADA.

Chairman OWENS. Mr. Ballenger?

Mr. BALLENGER. Thank you, Mr. Chairman. Mr. Frazier, in your study of the various and sundry States that implemented the order of selection and did not implement the order of selection, did you find that those that implemented it allowed more people to get employment? In other words, were there statistics to prove that one

system got jobs for people better than another one, since it's vocational rehabilitation that we're speaking of?

Mr. FRAZIER. Congressman Ballenger, our work did not look into that aspect of it. Our work was kind of restricted to: of the caseloads served, which group receive the severe handicap or the nonsevere handicap; which group was served in the highest order.

So we found that the States with order of selection were serving a higher percentage of their caseload with severe handicaps. But we did not look into the question that you raised about which were more effective in placing the job or which States were most impressive in placing jobs.

Mr. BALLENGER. Well, I just wonder if there were statistics at all that proved that one method would be better than the other to employ people with disabilities if we're speaking of vocational rehabilitation; I mean, just not straight rehabilitation but vocational rehabilitation. Where I come from, the unemployment rate before this recession was about 2.5 percent.

Obviously, we would like to hire more people that had received this rehabilitation. It would be interesting to me if there were a statistic in your computer or whatever system you've got there that would show that one system was better than the other as far as receiving or being successful in job searching.

Ms. HECK. Congressman, we have some data that talk about rehabilitation rates, successful rehabilitation rates. They do show that, at least for our order of selection States, for the nine that have implemented it, where the percent of severely disabled in the client caseload went up, in most cases the successful rehabilitations did go down.

But, if you look at all the States, the pattern is really quite different. There are many States where the percent of severely disabled went up and so did the successful rehabilitation. We haven't analyzed it to see if there really was a correlation in any way.

Mr. BALLENGER. That would be interesting. I was thinking back in the days when I was on the budget for vocational rehabilitation for the State of North Carolina. I do think that the gentleman, the honest person that told you his budget was based on the number of successful cases that came through, there wouldn't be any question in my mind that that probably is a fairly obvious way that they sell themselves for more money in the State budget. I don't know, but it just appears that way.

Ms. HECK. Well, when we looked at our caseload overall, we found that the rate of successful rehabilitations between severely disabled and nonseverely disabled varied by less than 1 percent or less than 2 percent overall nationally. So that's why you'd really need to get into some really detailed looks at the State level to see what was going on with the numbers.

Mr. BALLENGER. Okay. Thank you, Mr. Chairman.

Chairman OWENS. Mr. Payne?

Mr. PAYNE. Thank you. Unfortunately, I got here too late to hear testimony. Therefore, I'll be very short. As it's been indicated by Representative Owens, although we can't be all things to all people, we certainly have to do better than we've been doing. I would hope that there would be a greater effort to meet the needs

of those who are handicapped and who are severely disabled by making services more available to them.

I'm aware that the administration, although it took pride in the signing of the legislation, fought very diligently against the Americans with Disabilities Act. As a matter of fact, I guess the only reason that we were able to get it passed was because it was so diluted that it was acceptable to the White House.

We heard all sorts of stories about small businesses being put out of business; that a little ramp is going to be too costly for a small business to build, although we found out that the average cost was less than $75. We heard bus companies saying you can't ride this "dog" bus any more because we're going to have to refit everything.

For years and years and years we heard all the reasons why we shouldn't pass a meaningful piece of legislation. I'm glad that we took a first step by finally passing what I felt was a very diluted ADA bill, but at least it was a first step. I would just hope that we could even improve on that and really move towards having people with disabilities, who I feel represent a very large, untapped resource in this Nation more independent, especially as we attempt to become more competitive.

I think that it's been shown that people with disabilities take their work with a great deal of pride and a great deal of interest. I think if we really make a very strong attempt to bring these people back, in the long run we can make them more sufficient and productive in our society.

I don't have any specific question, but I did want to be sure that we remember how the administration fought against a meaningful piece of legislation early on. Hopefully, we can strengthen it and provide more opportunities for people with handicaps, particularly those who are severely handicapped.

Chairman OWENS. Mr. Frazier, we want to thank you and your staff for a very useful and informative study. We appreciate your appearing here. We'll be in touch with you with additional questions, if we should have them.

Mr. FRAZIER. Thank you, Mr. Chairman.

Chairman OWENS. Our final panel consists of Mr. Elmer Bartels, Commission, Massachusetts Rehabilitation Agency, and Mr. Michael Peluso, Coordinator, Client Assistance Program, New York.

Mr. Bartels.

STATEMENTS OF ELMER BARTELS, COMMISSIONER, MASSACHUSETTS REHABILITATION AGENCY, BOSTON, MASSACHUSETTS; AND MICHAEL PELUSO, COORDINATOR, CLIENT ASSISTANCE PROGRAM, ALBANY, NEW YORK

Mr. BARTELS. Mr. Chairman, I am Elmer Bartels. I am commissioner of rehabilitation in the Commonwealth of Massachusetts. I'm also representing the Council of State Administrators of Vocational Rehabilitation today in your hearing concerning reauthorization of the Rehabilitation Act.

I come here today as a person with a disability, obviously. I come here as a State director of vocational rehabilitation in the State of Massachusetts. I come here as a representative of my peers from 83

other State agencies in this country that provide rehabilitation services to help people with disabilities go to work and to live independently.

Mr. Chairman, I can remember sitting in Boston about 2 years ago when you were holding a regional hearing on the Americans with Disabilities Act. I recall that that was a very long day. It started around 10 o'clock in the morning, and I think it was after 6 and maybe even on to 7 o'clock that evening before you ended the testimony from people with disabilities in Massachusetts who were interested in their rights as people with disabilities and wished to go to work.

I certainly appreciate your leadership, the Congress' leadership and that of the White House in helping us to have a valid, viable Americans with Disabilities Act. We all celebrate July 26, 1990, when that became the law of the land. Thank you on behalf of all Americans with disabilities for your leadership role and that of this committee, Congress and others.

As I look at the promise that the Americans with Disabilities Act presents—and I think you mentioned that earlier in your opening statement—I see the Rehabilitation Act as being that enabling statute that provides a service delivery system that helps people with disabilities achieve those employment goals.

We know that there is a high unemployment rate amongst people with disabilities in this country. The poll that was done by Harris Poll some years ago points out approximately two-thirds of the people with disabilities who are of working age in this country are unemployed.

The service delivery system, the public program of vocational rehabilitation, is there to help people with disabilities go to work and to achieve their vocational goals, the expectation that is raised by the Americans with Disabilities Act.

I am a great fan of the Rehabilitation Act, but I really came to know it most intimately in 1973 when some very important features were put into the act around the individually written rehabilitation plan, the involvement of the consumer community in the development of that plan, and also the requirement for consumer involvement in the policymaking of the State agency.

I have found, as a State director of vocational rehabilitation, and also as a person with a disability, that the program as defined by the law is really a very flexible one in terms of eligibility and in terms of providing services that help people with disabilities go to work.

My philosophy, and I think we have tried to implement it in the context of the law, is that under the Rehabilitation Act Title I, we can do anything for anybody with a disability to help them work. Sometimes we get caught up in precisely how we're going to do that because the Rehabilitation Act is carried out in a community where the counselor, the client, the employer and other resources have to carry out that plan.

In some communities you have more resources or employers or vendors or access to technology than in others. Some States are more rich in those kind of resources and other States are less endowed. However, the Rehabilitation Act provides a flexible arena

in which the counselor and the client can work out those differences.

I have seen the Rehabilitation Act deal with emerging disabilities. In 1961, I was a client of the rehabilitation agency in my State. At that time, it was not thought that people who were quadraplegics would be able to work. Well, that was in 1961, 1962. Yet, the world has changed. We now expect in the rehabilitation world that people who are quadraplegics and paraplegics will work.

We have a service delivery system that can provide services to help make that happen. I think we have been responsive serving such emerging disabilities as those of traumatic brain injuries, those of more complicated mental retardation, those with more complicated long-term mental illness. We are trying to be responsive to that.

The amendments of 1986 that went into the act defined supported employment and developed another technique that can be added to the tool box of services to help people with disabilities go to work. Also, the Technology Act is another one of those tools. We need to make good use of technology so that people with disabilities can go to work. The Technology Act is helping us to do that. That too will be folded into the service delivery system of the public program.

Today we have heard some discussion about consumer involvement in rehabilitation. Some mention has been made of vouchers. I think Commissioner Carney's statement about choice is a very important one. A knowledgeable rehabilitation counselor working with a person with a disability can make some very important choices that get exhibited by the statement of the individually written rehabilitation plan.

That's really where the choices occur in my mind. Then it's up to the State counselor in terms of counseling, guidance, and placement and the available purchase of service dollars to implement the plan that's been agreed upon.

One of the programs we have in this country that is and can be considered as a voucher program is the medicaid and medicare program. I think we have seen in those programs that very often the expenses associated with the increased cost of medical care have led to many States developing a managed care type of program where the people who need medical care and the State agencies that administer that have used a more managed operation. That, I think, has developed or will develop a better and more effective use of Federal and State tax dollars.

An analogy to that in the vocational rehabilitation program is where the counselor and the client work together to effectively define a vocational goal, a service plan, manage available resources that are always constrained, define a goal, and then carry out the service plan.

I'm very comfortable with how the Rehabilitation Act defines that, not to say that we can't make improvements in the act over time. We have always been making improvements in the Rehabilitation Act, and I'm sure that we will continue to do so. That ends my public statement. I would be glad to answer any questions you may have on such important topics as order of selection that GAO has just discussed, for example.

[The prepared statement of Elmer Bartels follows:]

Written Testimony of the

COUNCIL OF STATE ADMINISTRATORS OF VOCATIONAL REHABILITATION

before the

HOUSE SUBCOMMITTEE ON SELECT EDUCATION

on the

REAUTHORIZATION OF THE REHABILITATION ACT

September 26, 1991

Oral Statement Presented By:

Elmer Bartels
Commissioner
Massachusetts Rehabilitation
Commission

Mr. Chairman and Members of the Subcommittee:

On behalf of the Council of State Administrators of Vocational Rehabilitation (CSAVR), we welcome this opportunity to appear before the Subcommittee as it begins the process of Reauthorization.

My name is Elmer Bartels, Commissioner of the Massachusetts Rehabilitation Commission, and a member of the CSAVR. The Council is an association comprised of the Chief Administrators of the State Rehabilitation Agencies providing services to eligible persons with physical and/or mental disabilities in all the states, the District of Columbia, and our Nation's territories.

These 83 Agencies, 26 of which exclusively serve people who are blind and visually impaired, constitute the State Partners in the State-Federal Program of Rehabilitation Services for persons with disabilities as provided by the Rehabilitation Act of 1973, as amended.

The Council was established in 1940, to serve as a forum for Administrators to study, deliberate, and act upon matters bearing upon the successful rehabilitation of persons with disabilities into competitive employment. At the same time, it has enjoyed quasi-official status as an active advisor to Federal administrators in the formulation of national policy and program decisions, and has been an active force in strengthening the effectiveness of service programs for American citizens with disabilities.

THE VOCATIONAL REHABILITATION PROGRAM

Conceptually, Vocational Rehabilitation provides an opportunity for employment to eligible persons with mental and/or physical disabilities who, because of the severity of their disability, are unable to secure or hold employment. Rehabilitation Services were formalized under Federal Law in 1920, when Congress created a State-Federal Rehabilitation Program devoted to providing a variety of comprehensive Rehabilitation services geared towards the employment of adults with disabilities.

At the center of this Program is the State Rehabilitation Agency, which provides for and/or coordinates a wide range of services for eligible persons with disabilities, in cooperation with private, non-profit, community-based service providers and facilities.

To this effect, states have developed formal, cooperative programs and agreements with a wide array of public and private agencies, service and consumer organizations.

THE REHABILITATION ACT

Currently, Vocational Rehabilitation Services are guided by the parameters of the 1973 Rehabilitation Act. Called by many the most well-balanced legislation in the Human Services field, the Act embodies necessary elements for successful rehabilitation services through a nation-wide network of public and private, community-based, service providers.

In the Act, provisions are included for (1) a comprehensive and individually-tailored program of vocational rehabilitation services leading to employment; (2) a program which provides for the training of qualified Rehabilitation professionals; (3) a research program; (4) a comprehensive program providing independent living services to persons who are so severely disabled that they may not readily benefit from traditional rehabilitation services; (5) a program of supported work; (6) a rehabilitation facilities program in which individuals with disabilities may be served with optimum service and expertise; (7) a community services employment program; (8) a special projects program to test new knowledge in practical settings; and (9) the protection of rights of persons with disabilities. There are numerous other provisions which encourage Agencies to initiate new programs and expand existing ones to apply new knowledge to new groups of individuals with disabilities.

It is this balanced approach which has enabled millions of persons with disabilities to be rehabilitated from dependency and income maintenance programs into employment and productivity.

Nevertheless, the entire Rehabilitation Program is greatly hindered by the fact that our Nation spends over $200 billion annually to keep persons encumbered with disabilities in a dependent, non-employable state, while spending but a small fraction of that amount for Vocational Rehabilitation programs and services to facilitate the employment and independence of many of these same individuals.

The VR Program can do practically anything for individuals with a disability who need help and preparation for employment. We are limited only by our ingenuity and/or our monetary resources.

EXTENSION OF THE ACT

The Council urges the Subcommittee to provide for an extension of this Act for a period of time adequate enough to insure continued stability and Federal commitment to the entire Rehabilitation Program.

Program stability is crucial if we are to be certain that the provision of quality Rehabilitation services will be continued to

the millions of Americans with disabilities who desperately need these services to assist with their employment efforts.

Maintaining stability is fundamental for at least three reasons. Primarily, Mr. Chairman, the "Americans with Disabilities Act" (ADA), which you and other Members of this Subcommittee played such an important role in formulating, is a Federally-mandated Act that guarantees employment opportunities to those persons with disabilities who are "otherwise qualified." As you well know, the Vocational Rehabilitation Program is the only Program in the nation that works toward making individuals with disabilities qualified for employment. Therefore, if the provisions of the ADA are to be realized, the VR Program must be maintained, as never before, as a stable, and thus adequately funded, investment.

Secondly, since its inception in 1920, Vocational Rehabilitation has proven itself to be a cost-effective program by helping persons with disabilities increase their earning capacity; by freeing family members to work; and/or by decreasing the amount of welfare payments, health services, and social services they might need; as well as by assisting them to become employed taxpayers.

In fact, the Congressional Budget Office has consistently stated that "a reduction of funds for rehabilitation . . . would generate increases in other parts of the federal and state budgets."

Thirdly, an adequate extension will give the States clear indication of future Federal commitment to the Rehabilitation Program and to persons eligible for services.

We urge swift action by the Congress to reauthorize this law. It is imperative that State Governments and Rehabilitation Agencies have the necessary lead time to plan and secure future programming, policies, consumer input, and resource needs.

State Legislatures require advance knowledge of Federal Authorization levels for future years, in order to provide vital state matching financial resources.

As we meet today, there are no authorization figures which States can use for planning and for the appropriation of State matching resources for Fiscal Year 1993 and beyond.

PRIMARY ISSUES FOR CONSIDERATION

We believe the most significant problem facing the delivery of Rehabilitation Services is the inability to serve all those persons with disabilities who are eligible.

Quite simply, there are not sufficient funds to serve all of the eligible people with disabilities who have the potential and desire to work, and who need Rehabilitation Services to obtain employment and self-sufficiency.

In fact, it has been estimated that State Rehabilitation Agencies are able to serve only one out of every twenty people who are eligible for such services. Even when using the General Accounting Office's more conservative figures, the results are unacceptable.

The forced exclusion of millions of people with disabilities from receiving services is a cost this Nation cannot afford.

Compounding less than adequate funding levels is that in FY 1990, 68.3 percent of all individuals served by State Rehabilitation Agencies were categorized as being "severely disabled" by the Rehabilitation Services Administration (RSA).

The costs (in time, effort, and money for services) of rehabilitating persons with the most severe disabilities have risen dramatically, and are now estimated to be more than 50 percent greater than the costs of rehabilitating people less severely disabled.

At the same time, the actual purchasing power of the Rehabilitation service dollar has remained virtually stagnant since 1980. According to recent calculations, it increased by only 2.9 percent from 1980 to 1990.

Despite rising costs and demands, we are certain that the goals of the Rehabilitation Act can be more fully realized if adequate funding is provided. The justification for higher authorization levels stems from the purpose for which the money is spent - the prevention of an incalculable waste of human potential, a purpose on which no price tag can be placed.

We believe, therefore, that the maximum possible level of resources should be committed to providing Rehabilitation Services through the State-Federal Partnership.

While some would say that these are difficult fiscal times, and we believe they are, it seems that even within present parameters, Congress and the Administration continue to miss the mark.

Just one example will suffice to illustrate this point. Are priorities in order, when $300 million is appropriated each year for military bands, while only $13 million is spent for Independent Living Services to allow persons with disabilities to lead more productive lives?

As the CSAVR enters the Reauthorization process, there are certain principles the Council would like to articulate today. In the provision of educational and technical assistance during the Reauthorization of the Rehabilitation Act, the Council's membership has agreed to advance and adhere to four basic principles.

THE CSAVR SUPPORTS:

(1) STATUTORY PROVISIONS WHICH PROVIDE FOR EFFECTIVE AND MEANINGFUL INVOLVEMENT OF CONSUMERS WITH DISABILITIES IN ALL CRITICAL AREAS OF REHABILITATION SERVICE DELIVERY AND IN THE REHABILITATION PROCESS;

(2) PROVISIONS WHICH MANDATE AND ASSURE EFFECTIVELY-TRAINED AND HIGHLY COMPETENT PERSONS TO PROVIDE SERVICES IN ALL FACETS OF THE PUBLIC REHABILITATION PROGRAM; (The extent to which the mission of successfully rehabilitating eligible persons with disabilities is met relies on a corps of caring and able service providers throughout the United States.)

(3) PROVISIONS WHICH INSURE THAT "EMPLOYMENT" CONTINUES AS THE MAJOR GOAL OF THE PUBLIC REHABILITATION PROGRAM, WHILE RECOGNIZING THAT INDEPENDENT LIVING SERVICES CAN LEAD TO EMPLOYMENT AND INDEPENDENCE FOR MANY PEOPLE WITH DISABILITIES; (Many clients need these Independent Living Services before they can engage in gainful employment.) AND

(4) PROVISIONS WHICH INSURE THAT STATE REHABILITATION AGENCIES ARE THE VIABLE, ACCOUNTABLE, AND EFFECTIVELY-MANAGED CENTER OF A DELIVERY SYSTEM OF PUBLIC REHABILITATION SERVICES. (It is imperative that we have a streamlined, responsive, client-centered system in order to meet the needs of the community.)

Mr. Chairman the Council has been working with other organizations providing services to individuals with disabilities for the purpose of defining and articulating other issues for consideration during Reauthorization. CSAVR, as a Co-Chair of the Employment and Training Task Force of the Consortium for Citizens with Disabilities (CCD), a coalition of over 50 groups, has been working this past year to develop a document of consensus that represents the Consortium's recommendations during Reauthorization. We look forward to the submission of these joint recommendations at a later date.

In conclusion, Mr. Chairman and Members of the Subcommittee, we recognize that the great responsibility placed upon the

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Rehabilitation Program now becomes even more acute, with the passage and implementation of the ADA.

The ADA will vastly expand opportunities for all Americans with disabilities. It is vital that our Nation and the Rehabilitation Program be fully prepared to assist people with disabilities to fully realize the promise of this landmark legislation.

One of the strengths of this program lies in its evolutionary nature. The program we have today is by no means a static one, but one that has responded positively to consistent changes in the area of disabilities. We are convinced that the Rehabilitation Program will respond equally well to the challenges offered by the ADA.

We believe that the Rehabilitation Program can and must be improved. But it must be understood that adequate funding is crucial to the Program's success and to the implementation of the full policy goals of the ADA in enabling citizens with disabilities to work toward economic self-sufficiency and independence.

As we have stressed throughout this testimony, the balance imbedded within the Rehabilitation Act and the system of services it helps to implement, is a further strength. This balance is the result of cooperation between public and private, community-based service providers for the purpose of rendering "employable" eligible persons with disabilities who desire to work.

These are the strengths of this Program. Balance and adaptability are the two primary reasons why the State-Federal Rehabilitation Partnership has survived longer than any other human service program in the Nation.

Indeed, the Rehabilitation Program, with adequate funding for its services, is the most effective and cost-efficient approach to the Rehabilitation of the nation's disabled population. Its speedy reauthorization is critical to realizing the goals of including all Americans with disabilities as productive, fully participating citizens in our work places and community life.

We look forward to further discussions about the Vocational Rehabilitation Program, and stand ready to assist this Subcommittee and its Members in every way possible throughout the Reauthorization process.

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Chairman OWENS. Mr. Peluso.

Mr. PELUSO. Good morning. I'm Mike Peluso. I'm director of the New York State Client Assistance Program. I am profoundly honored to have the opportunity to testify before you. I come here on behalf of the National Leadership Summit meeting which was hosted by the Public Affairs Center of the University of Southern California.

This leadership summit brought together 75 of the Nation's leaders representing local, State, and Federal Governments, corporate and technology communities, consumer and independent living organizations, and education and advocacy structures; also an array of professional organizations to develop a new vision for the Nation's rehabilitation service system.

The conclusion reached at the summit was clear: it's time to rewrite the Rehabilitation Act in its entirety in light of the enormous social, economic, technological, and political changes which culminated and have accelerated with the breakthrough passage of the Americans with Disabilities Act of 1990.

Mr. Justin Dart, the chair of the President's Committee on Employment of Persons with Disabilities, commissioned this leadership summit to aim high, to be comprehensive. In her presentation, Ms. Sandy Parrino, the chairwoman of the National Council on Disability said if ADA was the legislation that opened the door of opportunity for persons with disabilities, then the Rehabilitation Act is the legislation which must prepare persons with disabilities to proceed through that door.

It was in this spirit of opportunity and challenge, and consistent with the best that we know in the field of human achievement, personal empowerment and contemporary realities of our societal development, that this distinguished leadership meeting produced five breakthrough principles. It produced recommendations on eligibility and entitlement, and areas which must be sunsetted in the current Rehabilitation Act.

The paradigm proposed by the Directions platform places the consumer truly at the center of service delivery. It calls for the act to both embody personal empowerment and acknowledge the importance of community action in assuring accessibility to generic services.

The Directions platform stresses inclusion of America's youth with disabilities into the act, highlighting the importance of supports which compliment the educational process. It speaks to the power of technology in enabling individuals to live independently and pursue meaningful careers.

The Directions platform spells out five breakthrough concepts. First, it calls for renaming the Rehabilitation Act of 1973 to reflect both the spirit and purpose of a comprehensive, independent living and vocational service system. Several of the proposed titles were the Americans with Disabilities Community and Career Act; the Americans with Disabilities Implementation Act; Services for Individuals with Disabilities Act; and the Independent Living Act.

Although the act has undergone several name changes since its origins as the Smith-Fess Act of 1920, little has been done to significantly refocus the mission of the rehabilitation service delivery system. Any name change in the Rehabilitation Act must reflect a

genuine reorientation and, frankly, an expanded commitment to enhancing civil rights, independent living and prospects for careers.

A cornerstone of the new orientation is embodied in the notion of careers as opposed to jobs. Training the focus of the act on careers is our second breakthrough concept. Careers must replace the current terminology and practices which focus narrowly on vocational placement, entry level jobs and closure.

While the current act references the provision of services "consistent with an individual's abilities" on an implementation level, the notion of careers is typically very removed from the vocational rehabilitation consumer-counselor relationship.

The current system does not validate an orientation toward a career track and instead frequently rewards shortsighted, dead-end placements which often do little to advance an individual's sense of self-esteem, personal empowerment and earning power.

An emphasis on careers implies a lifelong process of personal futures planning which is based on the principles of self-determination, self-satisfaction, and builds on the person's strengths and capacities. To achieve this end, the act must promote a systemic redirection of funds which advance integrated career options.

The third breakthrough concept calls for a Community Action title to be added to the act. The State agency, in direct partnership with independent living centers, will develop and implement a comprehensive community organizing capacity; in a sense, creating an infrastructure, broadening the capacity of the act and the service delivery system to really deliver on its promise.

Within that capacity, formal agency interrelationships will be developed and monitored. Staff competency would be assessed, and the development of new networks of service delivery will take place on the local level in an effort to advance full access, acceptance, and self-esteem to all persons with disabilities.

The Community Action title would implement an innovative advocacy model which would consolidate advocacy systems while substantively expanding consumer access to information, services and due process. This concept would explicitly incorporate assistance to employers and generic service providers as part of overall service delivery. The Community Action title would provide a framework within which consumer choice, service accountability and utility would all be dramatically enhanced.

The fourth breakthrough concept calls for a concerted effort of focus on youth. Youth with disabilities should be fully included into services and benefits under the act, and would call for the State agency to provide life and career planning in formal coordination with the State education agency and consistent with IDEA.

Funding shall insure fully integrated programming among youth with and without disabilities through personal and group advocacy, and service coordination which links public and private sector resources. The act's focus on youth would facilitate the coordination with, and equal access to, all existing youth services which would be provided based on personal strengths and capacities rather than driven by deficit-based diagnostic labels inherent in the existing service system.

Sustainable technology is our fifth breakthrough concept in the Directions platform. The act must call for an entitlement to technology and related supports and acknowledge their lifelong need. The provision of services under the entitlement will foster an individual's uninterrupted ability to work and thrive in the community. Given the limitations imposed by Title XIX and other medically-based models, the act must provide an alternative funding stream to establish the right to such services.

These five breakthrough concepts provide the framework to achieve integrated independent community living, careers, and a lifelong process of contribution and employment. In terms of eligibility, the Directions platform articulates a range of options.

One approach would be to establish a universal disability criteria. This criteria would establish mandatory uniform eligibility and disability determination for all Federal financial assistance.

A second recommendation calls for the establishment of presumptive eligibility for all persons with disabilities based on other federally-defined definitions of disability. However, key to any eligibility process is the need for the Nation's independent living and vocational service system to recognize that eligibility must be lifelong in duration if the act is to truly promote integration and independence for persons with disabilities.

Another fundamental direction advanced by the summit is a shift of community living and vocational services from a benefit to an entitlement program. We've established a right to special education services, a right to guarantee basic income and now a right to an accessible community.

If we are to genuinely enable American citizens with disabilities to obtain a career and engage effectively in community life, now is the time to recognize the right to independent living and vocational services. Entitlement provisions must be established to clearly specify that once eligibility conditions are met, an individual is entitled to a full range of services and resources with an exemption from means testing.

The hallmarks of traditional vocational rehabilitation services stand in sharp contract to these values and program design. Therefore, statute language, regulations, procedures, and practices underpinning a number of traditional service concepts must be explicitly rejected.

The Directions platform calls for sunsetting certain standards which are in conflict with the values endorsed by the summit meeting. Among these provisions and procedures for the current rehabilitation system which must be eliminated are case closures, the determination of feasibility and eligibility determinations, and the exclusionary orientation therein, the traditional deficit-based medical model.

Congressman Owens and members of the committee, your leadership in passage of the Americans with Disabilities Act speaks to your commitment to human rights and dignity for all Americans. This reauthorization provides the opportunity to actualize the promise of ADA. The promise as was indicated by the Chair on the floor of the House is nothing less than the emancipation proclamation for Americans with disabilities.

The Directions platform, which I would request be entered into the record in its entirety, presents a structural framework which, if incorporated into the reauthorized act, will provide a means to address the critical issues and barriers faced by Americans with disabilities.

[The material follows:]

REAUTHORIZATION OF THE REHABILITATION ACT

DIRECTIONS

from

A National Leadership Summit Meeting

Hosted by

University of Southern California
Washington Public Affairs Center
Washington, D.C.

January 13-15, 1991

IN FRIENDSHIP AND RESOLVE

The Meeting Steering Committee gratefully acknowledges the superb preparation and contributions of all the participants who attended this historic national leadership gathering.

This event demonstrates the convergence of interests and the remarkably unified vision among the breadth of individuals, organizations, associations, agencies and corporations who shared in its work.

In order for America to bring about the long overdue paradigm shift called for in these proceedings, a pyramid of involvement is urgently needed. We must firmly press for the complete reconstruction and rewriting of the entire Act.

This document attempts to set the strategic angle of change. It is not complete. The financial impact will be significant and must be calculated. It does not yet have the data base required to compel Congress to share in this vision. Considerable detail in relationship to specific Titles of the Act is left to your expertise to develop consistent with the principles and the scope set forth here.

Clearly, to fully realize a national, just, and economical system for services, Congress and America must also establish:

- A coherent, sufficient income policy for all Americans;
- Universal access and coverage to health care; and
- Safe, affordable, accessible, and adequate housing.

Nevertheless, profound change must start somewhere; and from our experience with the Americans with Disabilities Act, we are in the breach!

Therefore, we call upon you, the reader, to bring your power, imagination, resources, personal and professional network to bear to make these directions the next reality in federal statute.

Take these **ACTIONS** for the Reauthorization:

1. Share and debate the ideas contained in this report. Do not accept minor modifications, tinkering or incrementalism. Strive for the paradigm shift. Use your finite energy to bring about the major breakthrough.

2. Obtain endorsements and resolutions from every possible public and private source.

3. Communicate these endorsements to your Congressional offices and the appropriate committees.

4. Insist on whatever depth and extent of Congressional study and hearings are needed to ensure this strategic agenda is enacted.

5. Form or join a reliable coalition within your state to bring about the changes needed.

6. Build or join phone and fax communication networks to stay up to date with actions in Congress.

If, as with the Americans with Disabilities Act, we again marshall the will, demonstrate the broad base of public concern and support, and focus on what is common to us all, we will contribute mightily toward furthering the American Dream.

Steering Committee
Rehab Act Reauthorization Meeting

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OPENING REMARKS BY JUSTIN DART*

I congratulate U.S.C., Ralph Bledsoe, Bill Bronst-on, Lex Frieden, Colleen Wieck, and the other organizers of this conference to address an essential task—refining and expanding the Rehabilitation Act to serve all. And I congratulate you on assembling a group of truly distinquished authorities.

Thanks to a great President and a great Congress, thanks to the great patriots in this room, ADA is law.

ADA is a landmark in the evolution of the human self-image—the world's first declaration of equality for people with disabilities by any nation. But most important, ADA is a promise to be kept.

Two years of debate in Congress, 3,000 people on the White House lawn finally captured the attention of the world for our cause.

America is watching. The World is watching. We have a once in a millennium opportunity to make a fundamental improvement in human culture. But if the promise of ADA is not kept in the everyday lives of Americans with disabilities, if ADA is noted principally for neglect, noncompliance and bickering, the cause of empowerment will be set back for generations everywhere.

Christmas day I went to Arlington National Cemetery to consider my responsibility. I looked out over the little stone symbols of lives given so that we could advocate for ADA. I thought of the hundreds of millions in future generations whose destinies will be profoundly affected by what we do now. I thought of the people with disabilities laying in the streets of New York and Bombay, of the people isolated in the shacks of Pine Ridge and the back rooms of Beijing and Lagos. And I knew that I was not doing enough.

Most initially successful revolutions do not keep their promises. They are frustrated at the moment of victory by apathy and disunity.

Many of us are tired after long years of struggle. It is tempting to relax and enjoy the aura of political triumph—the positions, the recognitions, the prestige.

I am tired. And to tell you that I am never tempted to compromise principle for prestige would be dishonest and arrogant.

But I—we —"have miles to go and promises to keep before we sleep."

We must maintain and greatly expand the united action which carried us to victory for ADA.

We must once again overcome the obsessions with turf, pork barrel politics, and personal power, position and pride that have defeated the human dream so often in the past.

We of the disability community must unite as never before. We must celebrate and spread the message of ADA in every community. We must join together, with business, government, operators of public facilities, and service providers to implement ADA in every community. Because ADA is the essential philosophical, attitudinal, and legal foundation for everything we want to do at this meeting.

*Chair of the President's Committee on Employment of People with Disabilities. 4

And to keep the promise of ADA in real life we must create, enact and implement an expanded, comprehensive Rehabilitation Act.

Our first priority is to develop an already good, but incomplete Rehabilitation Act into a comprehensive process through which all people with disabilities will empower themselves to participate fully in the mainstream of the culture.

The process must enable people to take conscious control of and responsibility for their own lives.

The process must motivate and empower people to fulfill their potential for productivity in terms of those things which constitute quality of life for self and society. Life quality productivity is the substance of equality, of independence, of prosperity, of psychological and social security, and of happiness.

Families, schools, commerce, government, public media must be fully involved in the rehabilitation process.

An effective rehabilitation system must provide for lifelong single point of entry counseling, information, and referral tied together by a computer network connecting all clients, all public and private services, all information sources, and all authorities on the local, state, and national levels. Congress could provide seed money for such a computer network. It would be the beginning of a positive revolution in a now fragmented service and information system.

Cost? There is no better way to increase the quality and strength of family, local, state, and federal economies, and to reduce budget deficits, than to invest in the employment and other life quality productivity of all people with disabilities.

One final advice. Aim high. Be comprehensive. Create a process which will be a complete component of a truly responsible society in the 21st century. Do not be intimidated by fears that optimal solutions are politically and economically impossible.

The pioneers of ADA and every other great advance for human kind have been greeted with cries of "impossible." Our great nation already has the human, material, technological, and methodological resources to create a life quality society that exceeds the imagination of utopian fiction. Success simply requires positive, unifying, courageous leadership to reallocate resources from obsolete status quo practices to life quality productivity.

The key to success is unity. Working together we can transcend self-defeating perceptions and practices and create a Rehabilitation Act that will combine the best of the present and the possible, and truly empower.

We must unite. Together we have overcome. Together we can and we shall overcome.

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OPENING REMARKS BY SANDRA PARRINO*

Good Morning, its a pleasure to be here. The National Council is an independent federal agency originally created by Congress in 1978 as an affiliate of the Department of Education and was granted independent agency status in 1984. Its members are appointed by the President, with the advice and consent of the Senate.

By law, the National Council is charged with "promoting the full integration, independence, and productivity of individuals with disabilities in the community, schools, the work place, and all other aspects of American life." Our duties include providing advice and guidance to the heads of federal agencies with disability responsibilities and recommending to the President and Congress legislative proposals and .. other initiatives.

As most of you know, ADA was originally proposed by the National Council. If the ADA was the legislation that opened the door of opportunity for persons with disabilities, then the Rehabilitation Act is the legislation that must prepare persons with disabilities to proceed through that door. Over the last four months, the Council has received input regarding the reauthorization of the Rehab Act through two sets of hearings based on testimony of experts, consumers with disabilities and rehab professionals who recommended many, many changes in the Act.

In terms of the overall act, I heard one reoccurring, but not surprising, theme. The rehabilitation process, as currently practiced by the Federal/State vocational rehabilitation partnership is slow, bureaucratic and inefficient. Some of the regulations and amendments in the Act are a hybrid of old and new and they have not been put together on a comprehensive set of logical titles and regulations which truly enhance and encourage people with disabilities to reach their utmost level of integration and productivity. The cornerstone of the Act is a vocational rehabilitation program which began shortly after World War I. There are many traditions in the Act that are felt to be obsolete and should possibly be abandoned. People spoke to the Council about the importance of taking time not just to reauthorize the Act, but possibly to reconstruct it!

The following are some of the many excellent questions the Council heard during the hearings, which would need to be addressed when such a reconstruction occurs:

- Why, according to census data, has the percentage of people with disabilities in the labor force declined since 1981?
- What kind of accountability system and quality assurance process could be developed which focuses on quality in outcomes?
- If some States have consistently poor outcomes for people with disabilities, how should they be dealt with?
- How can work disincentives which are contained in the rehab process itself, as well as in other programs such as Social Security, be simplified and streamlined?
- Should the Act be amended to prohibit the applications of economic needs standards in connection with any vocational rehab service provided for an individualized written rehab program?
- Is the Rehab system appropriately and adequately serving people with long-term, serious mental illnesses and severe physical disabilities? Major emphasis continues to be on quantity of services.

*Chair of the National Council on Disability

Counsellors feel tremendous pressure to "close" as many clients as they can each year. Ultimately, their job performance is largely measured according to numbers of "cases closed" (people rehabilitated), not the quality of services provided individual clients. This translates into a hesitancy on the part of counselors to accept individuals who may be "risky". That is, where the prospects of eventual success are unclear. People with serious mental illnesses or severe disability are particularly hurt by this practice.

•How can the Act encourage innovative program options for emerging groups of people with disabilities such as those with AIDS, traumatic brain injuries, people with severe mental illnesses and environmental disabilities?

• How can control of the rehab process become a reality for people with disabilities? The rehab process has remained substantially controlled by the rehab counsellor. Many feel that the locus of control of the process should be shifted from the counselor to the consumer (the guardian or the person with a disability seeking services.) The entire Act should be restructured and modernized to adopt more of the principles of consumer involvement and consumer control.

•How to provide people with disabilities with the opportunity to make clear choices as to those services they wish to access in order to each the goal, which is employment?

•Would a voucher system be feasible?

•How can funds available through this Act be used to the greatest extent possible for direct services that lead to employment?

•How can the Act become a primary vehicle for preparing individuals with disabilities for lifetime careers? Job placements often are not consistent with today's job market, which clearly leaves people with disabilities out of competition for future opportunities because of the emphasis on entry level positions instead of careers. Emphasis on entry level positions is a disincentive for some people with severe disabilities. Preparing for a lifetime career would shift the focus of the Act from delivery of conventional rehab services, leading to low level outcomes, toward continuing support that develops careers for people.

•How can the Act be strengthened to insure that the placement of individuals into competitive employment in the most integrated setting is always the top priority?

•How can the Act be changed to ensure the life long supports and services are available for people with severe disabilities to remain in the work force? (as contrasted with the current time limited concepts.)

•How should personal assistance services to individuals with disabilities be included in the Act? Personal assistance services would include any supportive service from an individual to a person with a disability who needed such a supportive service in order to live independently and to work in the community.

•How can the language appearing in Title VII, Part B requiring consumer involvement characterize the Act as a whole: people with disabilities should have a leadership role in and be employed by all programs authorized by the Act.

I hope these provide a lead to what is most pressing, most challenging for Americans. Representatives from the the Board and staff of the Council will share our recommendations with you over these next three days.

In closing, I would like to salute the conferees of this summit as well as all of you who are here as leaders committed to the enhancement of and quality of opportunity for people with disabilities. Just as we all worked together on the passage of ADA, The National Council on Disability would like to continue to work jointly with you so that we may support progressive reform of the Rehabilitation Act. Thank You.

FIVE SHARED BREAKTHROUGH CONEPTS

1. A NEW NAME

There shall be a *new name* for the "Rehabilitation Act" in order to properly represent the full scope and expanded purpose herein. Suggestions included:

- Americans with Disabilities Act II;
- Americans with Disabilities Implementation Act;
- Americans with Disabilities Community and Career Act;
- Services for Individuals with Disabilities Act;
- Independent Living Act;
- Disability Storm

2. CAREERS:

The concept of *personal careers* must replace the current terminology and practice of vocational placement, entry level jobs, and "closure."

- A career creates the most significant identity and source of esteem for a person in our society.
- A career implies a lifelong process of personal futures planning that is based on the individual's choice to participate.
- A personal futures plan is based on self-determination principles and self-satisfaction. It builds upon the person's strengths and capacities. It is oriented to a personal vision of the future. It draws upon family, friends, and informal support networks to provide ongoing support to become a reality.
- Career choice is based on informed decision making and work experiences.
- Careers are coordinated with the person's education and continuing education.
- A career allows for job changes, flexibility, success, and failure, with no minimum or maximun hours of work.
- A career builds income over time and requires financial planning, economic security, and benefits including access to health care.
- A career encourages enriched, changing, and expanding relationships with employers, co-workers, families, neighbors, and friends.
- A career provides access to quality technology to improve learning, performance, communication, independence, and interdependence.
- A career provides opportunities to use generic services and fosters natural relationships.

The Act should direct resources only to integrated career options and systematically redirect existing funds toward careers that are integrated.

3. COMMUNITY ACTION

A *Community Action Title* must be added to the Act to implement an innovative advocacy model which assists the individuals with a disability to:

- Know and obtain service and resource options available to all people in the community and assist generic services to be fully accessible to all people.

- Make choices about what supports exist or need to be created to successfully experience full integration in community life and to achieve a satisfying and productive career pathway.

- The state agency, directly with independent living centers, will develop and implement a comprehensive community organizing capacity, staff competency, new networks, and formal agency interrelationships within each locale to advance full access, acceptance, and esteem afforded all persons with disabilities.

4. YOUTH

Youth (ages 3 through secondary education) with disabilities shall be fully included in the service and benefits of this Act and shall be provided life and career planning as a specific service of the state agency to be formally coordinated with the state education agency and P.L. 94-142.

Funding shall ensure fully integrated programming among youth with and without disabilities through personal and group advocacy, service coordination, and a community action paradigm linking public and private sector resources.

Coordination with and equal access to all existing youth services (social, health, education, vocation, etc.) shall be provided based on personal strengths and capacities rather than the diagnostic label andthe deficit based current model.

5. SUSTAINABLE TECHNOLOGY

An *entitlement to technology and related supports* is essential lifelong. The provision of this entitlement must be referenced to the individual's personal futures plan, fostering uninterrupted ability to work and thrive in the community. Further, such benefit must be based on regular and periodic assessments to ensure that an optimal match exists between support serives, technology, and the present and changing needs and development of the individual to sustain a career and independent living.

Acquisition, maintenance, appropriate on-hand duplication, warranties, and replacement costs must be guaranteed to ensure reliability, utility, and uninterrupted use of technology.

A new stream of funding within this Act must be established to this end when Title XIX and related medical model reimbursement programs and subsidies do not currently cover such costs.

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ENTITLEMENT

What services and benefits are required?

1. The purpose of the Act shall be to achieve: •integrated, independent community living; •careers, •lifelong contribution or employment through the promotion of a comprehensive, coordinated, and sustainable array of services and resources which empowers the individual and emphasizes self-determination.

2. Scope of services shall be defined as any good or service required to achieve and maintain integrated, independent community living; career related employment; and related activities defined by the individual through a personal futures plan.

3. Entitlement provisions must be established which clearly specify that once elibility conditions are met an individual is entitled to the full range of services and resources, with no means test, as needed throughout one's lifetime.

4. Establish technology and technology services as a sustainable, primary and singular service. These shall be considered rightful tools to access under ADA and 504 intent.

5. Develop new strategies to define and detect people who abuse the system for economic gain that are not more costly or dehumanizing than the abuse itself. (Minority opinion)

ELIGIBILITY

(Who shall receive benefits and services?)

A range of eligibility specifications are offered:

a. Establish a universal disability criterion. Create a mandatory, uniform eligibility/disability determination for all recipients of federal financial assistance.

b. Establish presumptive eligibility for all people with disabilities as defined by ADA and 504. Priority is given to persons with severe disabilities to ensure their access to service with definition of severity based on functional critieria.

c. Accept all other established definitions of disability including SSA, DD services, special education, and ADA. Eliminate duplication of other disability determinations without regard to previous work, past services, or severity of disability. Eliminate duplication of testing.

d. The individual self determines eligibility. The Act must recognize that assessments must focus on the interaction between the individual and the communiy environment.

Eligibility must be lifelong in duration.

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VALUES

Congress must enact a *Preamble* which articulates the breakthrough values and philosophy of integrated independent living and careers. This Preamble should reflect the principles of the Americans with Disabilities Act and reinforce the national commitment to the full civil rights of all people with disabilities. The Preamble sets the direction for all programs and services that promote the social and economic independence of people with disabilities.

The Preamble shall also accentuate a new emphasis on specific youth needs and services in the Act regardless of class, race, gender, and geographic diversity.

At the ***individual level***, the critical values are:

- Personal Empowerment: characterized by choices and information, individual control, and self-determination; access to economic security, accountability, ambition, and expectation.
- Access to individualized services that are coordinated, comprehensive, adaptable, and responsive.
- Outcomes defined by level of independence, productivity, and full social integration.
- Accountability based on quality of life, economic goals, consumer satisfaction, and personal responsibility.

At a ***generic level***, citizens are entitled to:

- A career (broadly defined).
- Social and family life.
- Civil responsibilities, privileges, and rights.
- Informal choices and valued outcomes.
- Integration into community life.
- Equitable financial incentives.
- Quality health care.

At a ***system level***, the system that supports these values in the spirit of the ADA must :

- Be individually controlled, driven, and directed.
- Be fundamentally equally accessible.
- Support inclusion and integration.
- Support the individual and family.
- Be committed to empowerment.
- Assist persons with the most severe disabilities first.
- Use outcome measures rather than process measures.
- Respect individual's privacy and confidentiality.
- Support social change and advocacy.
- Do away with the deficit based medical model.
- Provide technical support, education, and training to all covered by the Act.
- Holistically address life issues.
- Acknowledge technology as an equalizer to address person-environment match, not fixing individual deficits.
- Guarantee full access to technology.

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SUNSET

In contradiction to this system of values and program design, the hallmarks of traditional vocational rehabilitation stand in sharp distinction.

Therefore statute language, regulations, procedures and practices underpinning:

- **Case closures.**
- **The determination of feasibility and the exclusionary orientation therein.**
- **The traditional deficit based medical model**

all of which are inimical to this Act must be explicitly rejected and replaced.

ADMINISTRATION

1. **Governance** — The Act will define:
   a. A mandated independent agency at the state level with a full time director.
   b. The agency is responsible to a governing board of (15-20) citizens appointed by the Governor and approved by the Legislature. The majority of the board will be direct consumers. The Board will also include parents, chairs of ILCs and employers. The terms of members will be staggered.
   c. Strengthen mandated interagency coordination at the state and local level.
   d. The governing board has the power to approve the State Plan.
   e. Local control needs to be built into the Act. This process and structure of how toimplement local control is left to the states.

2. **Location**—Place in HHS (2 votes), place in Labor, place in "National Disabilities Administration" (consolidate RSA, OSEP, DD, NIDRR, PCEPD) with a council over this Administration, place in a new independent agency —RSA (5 votes).

3. **Local control**—Local community participation is critical and must be written into the Act. Planning must be community up, improve communication, and pull various disability groups together.

4. **Private Funds** — Require states to fully match, allow use of private funds with no penalty for overmatching.

5. **Voucher** — The Act should allow a pilot of vouchers in several states to determine best practices.
   a. Empower the individual so that he/she can receive the services wanted and have final approval of the IWRP.
   b. When eligibility is obvious, persons should be automatically assigned.
   c. This financial voucher system would enable individuals to choose support services which were responsive and satisfactory.
   d. The individual would have final decision-making regarding services, evaluation, or equipment with:
      - Dollars linked with IWRP.
      - Dollars follow through the IWRP to the individual then to services.

6. **Appeals** - Eliminate the final authority of the VR Director over the hearing officer. Require mediation or arbitration to resolve disputes. Participants shall have a choice of hearing officers.

7. **Program Evaluation**—Program evaluations and rewards derived from them must be broaded to include qualitative (process) criteria, long-term support, consumer satisfaction, and other measures beyond case closure and entry level placement. Develop weighted standards and eliminate status measures.

8. **State Plan** - State plan should have stringent requirements in order to promote uniformity in the provision of services in the state.

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CAREERS

1. **Impact of the Careers Concept:**
   a. Entitlement establishes a lifelong commitment to services contradicted by closure.
   b. Services should be provided in integrated settings. Finances can only be used to promote integrated work options.
   c. Systematic application of personal futures planning.
   d Recognize the limited access to current services (unemployment, underemployment, waiting lists).

2. **Definition of Services**—Define support, assistance, and services broadly to mean whatever it takes to accomplish meaningful goals. Eligible services should:
   a. Be defined by an individualized personal futures plan.
   b. Invest in enabling the community and generic services to meet the individual's specific needs.
   c. Include but not be limited to: attendant care, assistive technology, personal support, transportation assistance or support, training, co-worker support, counseling.
   d. Be accessible lifelong in response to need.

3. **Job Placement**—a) eliminate "closure" as a success measure and substitute record of successful intervention, b) informed decision making/self-determination, c) part of a negotiated and individualized support and training plan (including technology).

4. **Community Awareness**—Fund and develop a media campaign with career focus, for youth, communities and employers (separately). Participate in advocacy campaigns for social and physical accessibility .

5. **Technology**—a) Provide information and build awareness; b) use formal decision-making process for individual choice; c) develop comprehensive technology plan for accessing resources, purchasing instruction, maintenance; d) secure on-going discretionary resources; e) operational data bases which contain user friendly information on devices, access to used equipment; f) increase public exposure to the potential of technology.

6. **System and Coordination**-Mix and match funding from health, DD, SBA, State Department of Employment, HUD, SSA, Education (P.L. 94-142), transportation.

7. **Data Base** - Establish and maintain data on employment, income and benefits, trends and demographics, satisfaction surveys and school databases.

8. **Private Sector Matching & Assistance**-Fund raising for services, career development, and organizing work must be the department's responsibility.

YOUTH SERVICES

1. Service must be available to persons based on a range of need and/or desired outcome rather than age limits:
   a. Availability of services should be assured from age of onset of disability.
   b. Special attention must be paid to youth and those at risk of "falling between the cracks" for service eligibility, access and availability.
   c. Review all aspects of the Act to ensure that people living long lives (over 65) are not excluded by recommended policies.

2. Provide for staff and fiscal support for integrated youth programming (e.g., California's Project Interdependence and other youth self-determination projects.)

3. Independent Living Programs should be established in all county and selected local school-based settings (*Student Self-Determination Centers)* which, in content and process, develop the skills and attitudes vital to maximizing/optimizing personal independence (e.g., self-esteem, empowerment, assertiveness, self-determination, advocacy, peer support control) by all students with disabilities.

4. Mandate state grant allocations to provide career and transitional counseling for youth.

5. Determine and promote a range of incentives designed to encourage the participation of the private sector (companies and/or individuals) in the career development and retraining of individuals with disabilities.

6. Mandate and establish mechanisms of individual service coordination which link private and public resources to insure the purchase of services, programs and technology. Mandate the creation of Individual Service Coordinator trained and authorized to work in partnership with the individual and family members to coordinate and monitor the delivery of interagency services.

7. The Act must be integrated with P.L. 94-142 and assure that mandates are implemented in practice. Undertake ongoing side by side law reviews other Federal legislation affect people with disabilities to ensure full coordination and mutual reinforcement of values expressed above.

8. Mandate that support services for family and/or advocates be provided as needed to increase the likelihood of success for individuals with disabilities in their development.

9. Continue to promote and model the appropriate portrayals of people with disabilities in all forms of media.

10. Coordinate and endorse all efforts toward prevention and amelioration of disabilities due to life style, accidents, and environmental factors.

11. Mandate a change in the National Census to include all people with disabilities and implement a nationwide survey to accurately assess the scope and functional significance of disability in America.

INDEPENDENT LIVING

1. The New Act will be reorganized as follows:

   a. Title I, Civil and Legal Rights Protections:
      1) Includes all provisions of Title V.
      2) Includes legal protections. Redesign system to include P.L. 94-142 legal right concepts in Client Assistance Program Services and Protection & Advocacy Legal Services Model.
      3) Include specific language on mandated systems and policy integration at the federal level.
      4) Include oversight of technology and communication in the mandate of the access board.
      5) Move Title IV (National Council on Disability) to Title I.
      6) Include advocacy based on I & R.
      7) Move Title VII A to Title I.

   b. Title II, Comprehensive Services (career and community access services):
      1) Facilitate individual movement through system through strengthened identification, outreach and information.
      2) Require a newly constructed state council to develop, oversee, and evaluate the state plan and its implementation:
         a) Act should specify criteria for plan.
         b) Support and training shall be provided to carry out program for the Council.
         c) Funding should be available to support Council work.
         d) The Council should be appointed by the Governor.
         e) The Council should represent all disabilities and be composed of a controlling number of persons with disabilities.
         f) The Council should recommend and review the choices for Director of the designated state agency to the governor where appropriate.
      3. Services under Title II should be:
         a) Lifelong in duration.
         b) An entitlement to eligible participants.
         c) Integrated, using a team approach.

   c. Title III, Independent Living Centers:
      1) National Council on Disability standards should be written into law.
      2) Direct funding to Independent Living Council (remove state's right to preempt or withhold funds).
      3) Mandate individual & system advocacy mission with an emphasis on persons who are underserved.
      4) Establish a state Independent Living Council to provide statewide policy direction.

5) Develop a Technical Assistance Network in conjunction with ATBCB.
6) Establish the Independent Living grant based on a progressive funding formula independent of the establishment grant.
7) Establish an Independent Living Commissioner.

2. Implementation:
   a. Establish a commission made up of a majority of persons with disabilities to review the current act and develop detailed recommendations for change and reform.
   b. Reauthorization should be for three years.
   c. Sponsor regular White House conferences on disability priorities and issues.
   d. Develop a *waiver demonstration* program:
      1) States apply for all or part of their funding to be directed to their waiver progr
      2) Waiver must demonstrate accountability for qualitative services.
      3) System must have a component to train participants as systems change agents.
      4) System must demonstrate the ability to provide services that enhance social and economic independence and address lifelong need.
   e. Subsequent to the passage of the Americans with Disabilities Act, "Client Assistance Program Services" must be prepared for an increased demand from people with disabilities, and should be prepared to coordinate these issues. With broadened eligibility, the "Client Assistance Program Services" should have an increased all around capacity to serve all people with disabilities entering the system.

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PROGRAM AND INTERAGENCY SYSTEMS

1. The Act must provide all services and supports necessary to ensure independence, productivity, and integration of people into the community. The Act should require linkage to obtain income maintenance, housing, and health care.

2. The Act should redefine outcome measures to correspond with the orientation toward lifelong careers and integrated independent community living. Case "closures" must be replaced with multiple approaches to assessing quality including:

   a. Individual satisfaction.
   b. Individual outcomes and measurements of:
      - Productivity - gainful employment, wages, benefits, and hours worked.
      - Independent living/independence.
      - Integration and involvement in the total community environment.
      - Other quality of life indicators.
   c. The optimal match of services and supports to individual need.
   d. Independent case coordination and independent third party evaluations.
   e. Standards for service.
   f. Employer measures such as satisfaction.
   g. Efficiency - percentage of dollars spent on administration/services.
   h. Appeals process and independent client assistance program.
   i. State plan - public hearings, monitoring and oversight of the state plan.
   j. Research, training, and technical assistance on evolving best practices.

3. Mandate that all individuals receiving services under the Act have an individualized service plan *(personal futures plan)* which is jointly developed and agreed upon by staff and the individual with a disability.

4. The Act should include a definition of consumer response accountability. *Consumer-responsive* is defined by factors such as: convenience; choice and selection: courtesy and prompt delivery of goods and services; continuity and reliability.

5. All services funded under the Act must be available on an ongoing basis, based on the needs of the individual using comparable benefits whenever possible.

6. Support services shall include all current Title I services plus:

   a. Training:
      1) Functional: Habilitation including •Daily living skills (Independent Living), •Mobility, and •Communications.
      2) Productivity: •Employment preparation/vocational, •Accommodations, •Careers, •Job coach (only if needed).
      3) Empowerment: Self, family, peer, representative, maximizing potential •Personal futures planning, and • Assertiveness skill.
   b. Personal assistance/support.
   c. Information and referral - Information on technology, services, benefits, rights, responsibility.

d. Rehabilitation engineering.
e. Mandate transitional services linkage with schools.
f. Transportation.
g. Family support.
h. Follow-up/follow-along.
i Postemployment services.
j. Clinical research.
k. Protection and advocacy (assistance in accessing services, advocacy, rights protection).
l. Service coordination.
m. Disability Allowance:
   1) Financial equalizer to offset increased costs of having a disability as needed, fair and reasonable.
   2) Currently supported through Family Support (cash subsidy/voucher).
   3) Complete adaptation of all environments and eliminating all barriers, until that level of equality is attained and disability allowance would compensate persons for increased costs associated with disabilities.

7. Establish a comprehensive, National and state to local office/individual counselor, electronic information and referral data base and state of the art communication system. This technology, available to every staff, must be accessible to people with disabilities and their representatives (families, significant others, advocates).

8. The Act must establish a commitment to early intervention and prevention-of-harm intensive training for professionals, peer counselors, and self-advocacy roles with new program design throughout education, social services, and health care systems.

9. Governance - the state agencies should be free standing with policymaking boards consisting of people with disabilities.

10. Create a mandated statewide planning council which would: a) plan and coordinate all services funded under the Act; b) identify duplication and gaps in services; c) provide input and review of state program and independent living state plans; d) provide input into policy development; e) centralize I & R services; f) collect data, analyze and report trends.

11. Provide leadership for innovation in policy and practice, advocate research and its popular dissemination, review and reform proposed personnel systems and training, spearhead media and public education.

12. Provide demonstration authority for innovation.

TECHNOLOGY

1. The Act must establish a right to the tools of access. Technology is neither one shot training, nor ongoing income subsidy. It presents the concept of "ongoingness." There is no category for this type of ongoing episodic support. Technology represents a new way of thinking, one that more accurately reflects the independent living movement/disability rights perspective. Eligibility questions that technology represents are a concrete embodiment of civil rights.

2. **Definitions**:
   a. **Assistive Technology Devices and Assistive Techpology Services** - Use definitions from Technology Related Assistance Act of 1988.
   b. **Independent Living** - Independent Living is not an alternative to being vocationally feasible. Independent Living is the basic support services needed to live a self-directed life.
   c. **Independence** - Defined in terms of how much control you have over your environment, not in the number of taskes that can be done without assistance. A person can be independent and still use technological assistance and personal assistance.
   d. **Consumer responsiveness**:
      1) Assessment should focus on abilities, oriented toward functional/situational/integration issues.
      2) Assessment and training, especially for jobs, should occur in integrated, appropriate settings.
      3) Establish *Non-Restrictive Environment* concept with no more federal funds for segregated programs and settings. It is not a continuum of services like LRE.
      4) Technology can and must be provided as a primary and singular service.
      5) Priority is given to using technology as part of the job site accomondation to return to former job without requirement for evaluation and retraining.

3. **Telecommunications:**
   a. Establish a priority for removal of communication barriers. The name of the ATBCB be changed to reflect recognition of importance of communication.
   b. Urgent action must be taken to assess the window of opportunity for adopting fully accessible, integrated, telecommunication technologies to *avoid the need for retrofitting*.

4. **NIDRR Research Program:**
   a. Establish an REC/RTC to study technology policy. The Center would : • study funding mechanisms for assistive technology with an I&R component, •train on topics of national significance, •coordinate with state programs and with work funded under the Tech Act, • establish the basis for the development of uniform approaches to cost-benefit analysis and cost-effectiveness analysis so these studies can be effectively compared.
   b. Establish a priority for mass marketing of accessible and adaptable designs and products.
   c. Mandate integration and joint funding of research activities among all national agencies (SSA, ADD, NIA, etc.)

5. **Funding:** Flexible funding options must be developed, including interagency cost sharing and private sector cost sharing.

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PERSONNEL

1. Mandate a new model for personnel development based on a shift to an **Advocacy and Empowerment** paradigm. The Act should define the primary role of all "qualified personnel" as advocates. Personnel will become advocates who:
   a. Are knowledgeable of all resources available in the community.
   b. Possess organizational skills.
   c. Have the ability to empower leadership among individuals with disabilities.
   d. Have the ability to facilitate civic/community participation such as affecting community teams.

   Minority View: Personnel practices of current system should be retained, updated, and expanded to meet growing demands.

2. Advocacy service/training must be included in Title I language as "essential and appropriate service."

3. Establish *Advocacy Specialist* Personnel Model:
   a. Advocacy Specialist assist persons with disabilities to learn self-advocacy/system advocacy as well as helping to broker/manage community supports so persons with disabilities can reach their personal visions by gaining access to those supports available in the community.
   b. Advocacy Specialists work with and assist generic support systems to make their setting accessible to persons with disabilities (accessibility: attitudinal, physical environment, programmatic, technological).
   c. Redirect training of leaders and counselors from clinical/rehab model to advocacy/community broker model.
   d. Develop new curriculum/training programs for rehab personnel or integrate them into current curriculums such as in the community organization-social change agents.
   e. Professional and consumer advocacy training curriculum must be state of the art and include:
      1) History of oppression and segregation of people with disabilities, the experience of disability in the culture including anti-discrimination awareness & orientation.
      2) Knowledge of federal/state statutes and policies, especially civil rights.
      3) System of federal, state and local structures, agencies and resources.
      4) Human psychology, counseling, case management, theory, skills and best practices.
      5) Community organizational skills including social and political empowerment strategies.
   f. Institutionalize dissemination of best practice information through the Advocacy Specialists and fellowships.

4. Mandate and implement a consumer empowerment education repertoire:
   a. Directed at youth and adults, individuals, and families.
   b. Prepare persons with disabilities to be self-advocates and system advocates.
   c. Methods:
      1) Curriculum change for P.L. 94-142 to incorporate advocacy components.

2) Curriculum/experience change of nondisabled students, teachers, etc., in areas of disability awarenesscareer search/experiences *with* persons with disabilities.
3) Incorporate into current Transition Programs.
4) Establish and implement curriculum through independent, competency-referenced, value-based allied community agencies that respect and employ a consumer accountability model.

5. Provide Generic Community Supports:
   a. Build awareness and incentives within generic community supports to achieve access and inclusion.
   b. Impact on current training programs for people who lead and work in all of the support services.

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The Meeting organizers and participants wish to express their unreserved gratitude to the committed friends who understood the dream and shared in our production of this Leadership Summit Meeting by their generous financial support.

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REAUTHORIZATION OF THE REHABILITATION ACT CONFERENCE:
A COMPREHENSIVE VISION FOR THE 21ST CENTURY
Lowe's L'Enfant Plaza
Washington, DC
January 13-15, 1991

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Mr. PELUSO. It is a visionary, yet focused, approach developed by individuals who have committed their lifelong professional and personal lives to services, personal empowerment and inclusion for the Nation's citizens with disabilities. The Directions platform is a call for leadership. It is a call for commitment of this Nation's will, energy and creativity to promote independence, dignity and life with meaningful careers.

With the aspirations of 43 million Americans with disabilities in the balance, we implore you to embrace these Directions, to call for additional congressional hearings and forums, to unleash the reservoir of creativity and knowledge ready and waiting to implement the framework advanced by the Leadership Summit. With the true promise of emancipation for Americans with disabilities in the balance, we can do nothing less.

Thank you very much. Those are my formal comments. I'd be happy to answer questions.

[The prepared statement of Michael Peluso follows:]

STATEMENT OF MICHAEL PELUSO, DIRECTOR, NEW YORK STATE CLIENT ASSISTANCE PROGRAM

Good Morning. I am Michael Peluso, Director of the New York State Client Assistance Program and I am profoundly honored to have the opportunity to testify before you, the Subcommittee on Select Education, this morning on behalf of the National Leadership Summit. The Summit meeting, hosted by the Washington Public Affairs Center of the University of Southern California, brought together 75 of the Nation's leaders representing local, State and Federal Government, corporate and technology communities, consumer and independent living organizations; education and advocacy structures; and other professional organizations to develop a new vision for the Nation's rehabilitation service system. The conclusion reached at this Summit is clear; it is time to rewrite the Rehabilitation Act in its entirety in light of the enormous social, economic, technological, and political changes culminating in and accelerated by the breakthrough passage of the Americans with Disabilities Act of 1990.

Mr. Justin Dart, the Chair of the President's Committee for the Employment of Persons with Disabilities commissioned the summit to "Aim high . . . Be comprehensive." In her presentation, Ms. Sandy Parrino, the Chairwoman of the National Council on Disability, said, "If the ADA was the legislation that opened the door of opportunity for persons with disabilities, then the Rehabilitation Act is the legislation that must prepare persons with disabilities to proceed through that door."

In the spirit of this opportunity and challenge, consistent with the best that we know in the field about human achievement, personal empowerment, and the contemporary realities of our societal development, this distinguished leadership meeting produced five breakthrough principles, recommendations on eligibility and entitlement, and areas which must be sunsetted in the Rehabilitation Act.

The paradigm proposed by the Directions platform places the consumer truly at the center of service delivery. It calls for the act to both embody personal empowerment, and acknowledge the importance of community action in assuring accessibility to generic services.

The Directions platform stresses "inclusion" of America's youth with disabilities into the act, highlighting the importance of supports complimenting the educational process. It speaks to the power of technology in enabling individuals to live independently and pursue meaningful careers.

The Directions platform spells out five breakthrough concepts. First it calls for renaming the Rehabilitation Act of 1973 to reflect both the spirit and purpose of a comprehensive independent living and vocational service system. Several of the titles proposed are: The Americans With Disabilities Community and Career Act; The Americans With Disabilities Implementation Act; Services for Individuals With Disabilities Act; and the Independent Living Act.

Although the act has undergone several name changes from its origins as the Smith-Fess Act of 1920 (civilian vocational rehabilitation), little has been done to significantly refocus the mission of the rehabilitation service delivery system. Any name change in the Rehabilitation Act must reflect a genuine reorientation, and

frankly an expanded commitment to enhancing the civil rights, independent living and prospects for careers.

A cornerstone of that new orientation is embodied in the notion of careers as opposed to jobs. Training the focus of the act on careers is our second breakthrough concept. Careers must replace the current terminology and practices which focus narrowly on vocational placement, entry level jobs, and "closure." While the current act references the provision of services "consistent with an individual's abilities," on an implementation level, the notion of careers is typically very removed from the vocational rehabilitation counselor-consumer relationship. The current system does not validate an orientation toward a career track and instead frequently rewards shortsighted dead-end placements which often do little to advance an individual's sense of self esteem, personal empowerment, and earning power.

An emphasis on careers implies a lifelong process of personal futures planning which are based on the principals of self-determination and self-satisfaction, and builds upon the person's strengths and capacities. To achieve this end the act must promote a systemic redirection of funds which advance integrated career options.

The third breakthrough concept calls for a Community Action title to be added to the act. The State agency in direct partnership with independent living centers will develop and implement a comprehensive community organizing capacity. Within that capacity, formal agency inter-relationships will be developed and monitored, staff competency would be assessed, and the development for new networks of service delivery will all take place at the local level in an effort to advance full access, acceptance, and self-esteem for all persons with disabilities.

The Community Action title would implement an innovative advocacy model which would consolidate advocacy service systems while substantively expanding consumer access to information, services, and due process. This concept would explicitly incorporate assistance to employers and generic service providers as part of overall service delivery. The Community Action title would provide a framework within which the consumer choice, service accountability and utility would be dramatically enhanced.

The fourth breakthrough concept calls for a concerted focus on youth. Youth with disabilities should be fully included in the services and benefits of the act, and would call on the State agency to provide life and career planning in formal coordination with the state education agency consistent with IDEAS. Funding shall insure fully integrated programming among youth with, and without disabilities through personal and group advocacy, and service coordination which links public and private sector resources. The act's focus on youth would facilitate the coordination with, and equal access to, all existing youth services, which would be provided based on personal strengths and capacities rather than driven by deficit based diagnostic labels inherent in existing service systems.

Sustainable technology is the fifth breakthrough concept in the Directions platform. The act must call for an entitlement to technology and related supports and acknowledge their lifelong need. The provision of services under this entitlement will foster an individual's uninterrupted ability to work and thrive in the community. Given the limitations imposed under Title XIX and other medically based models, the act must provide an alternative funding stream to establish the right to such services.

These five breakthrough concepts provide the framework to achieve integrated independent community living, careers, and a lifelong process of contribution and employment. In terms of eligibility the Directions platform articulates a range of options. One approach would be to establish a universal disability criteria. This criteria would establish a mandatory, uniform eligibility/disability determination for all recipients of federal financial assistance. A second recommendation calls for the establishment of presumptive eligibility for all people with disabilities. However, key to any eligibility process is the need for the Nation's independent living and vocational service system to recognize that eligibility must be lifelong in duration, if the act is to truly promote the integration and independence of persons with disabilities.

Another fundamental policy direction advanced by the summit is a shift of community living and vocational services from a benefit to an entitlement program. We have established a right to special educational services, a right to a guaranteed basic income, and now a right to an accessible community. If we are to genuinely enable American citizens with disabilities to obtain a career, and engage effectively in community life, now is the time to recognize the right to independent living and vocational services. Entitlement provisions must be established which clearly specify that once eligibility conditions are met an individual is entitled to the full range of services and resources with an exemption from test lifelong. The hallmarks of traditional vocational rehabilitation stand in sharp contrast to these values and program

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design. Therefore, statute language, regulations, procedures, and practices underpinning a number of traditional service concepts must be explicitly rejected. The Directions platform calls for the sunsetting of certain current standards which are in conflict with the values endorsed at the Summit meeting. Among the provisions and procedures of the current rehabilitation system which must be eliminated are: case closures; the determination of feasibility in eligibility determinations and the exclusionary orientation therein; and the traditional deficit based medical model.

Congressman Owens and members of the committee, your leadership in passage of the Americans with Disabilities Act speaks to your commitment to human rights and human dignity for all Americans. This reauthorization provides the opportunity to actualize the promise of ADA, the promise as you indicated on the floor of Congress, which represents nothing less than an emancipation proclamation for Americans with disabilities.

The Directions platform, which I have enclosed in its entirety for the record, presents a structural framework which if incorporated into the reauthorized act will provide a means to address the critical issues and barriers faced by American's with disabilities. It is a visionary yet focused approach developed by individuals who have committed their lifelong professional and personal lives to services, personal empowerment and inclusion for the Nation's citizens with disabilities.

The Directions platform is a call for leadership. It is a call for commitment of this Nation's will, energy and creativity to promote independence, dignity, and life with meaningful careers.

With the aspirations of 43 million Americans with disabilities in the balance we implore you to embrace these Directions, to call for additional congressional hearings and forums; to unleash the reservoir of creativity and knowledge ready and waiting to implement the framework advanced by the Leadership Summit. With the true promise of emancipation for Americans with disabilities in the balance, we can do nothing less. Thank you.

Chairman OWENS. Thank you. The Chair wishes to note we have a copy of the Directions from the summit attached to your testimony. Along with your testimony, the document will be entered into the record. It's a very ambitious document. We hope to all work together to see if we can realize some of the visions that are embodied here.

Commissioner, I'd like to start with you. I'm going to ask you to comment on this document as a commissioner who is out there on the front line and give us some idea of how you see us working to help realize some of these visions in the face of the present realities.

Before I do that, I want to just touch on the item that we had before us with respect to the General Accounting Office report. Do you think we were overdramatic about this whole matter of serving the severely disabled? In your experience with the people you represent, did we throw it out of focus or is it proper that we should be alarmed? Statistics show that the number of severely disabled is going down.

Mr. BARTELS. Mr. Chairman, I think the reason that we're talking about order of selection is that we don't have adequate resources within the rehabilitation program to help all eligible people who come to our doors. As the law states, if you cannot serve all eligible clients, then you must institute an order of selection in order to assure that you serve the severely handicapped at least.

The real question is resources. When I first came to the agency almost 14 years ago, it was very clear to me that we, in Massachusetts, could not serve all eligible people who came to our door. The costs of rehabilitation were going up dramatically. The dollars that were coming in from the Federal level were not adequate to meet that and never have been in terms of the increases from year to

year, even though the State was well above its minimum matching requirement.

In 1977, we instituted an order of selection and have been in such since. In 1978, we served about 41,000 clients. This past year we served about 33,000. In 1978, we helped 6,000 people go to work. This past year we helped almost 4,000 go to work. Obviously, the numbers went down. The people, in terms of a percentage of those that are severely handicapped, is up around 90 percent.

We have been forced by limited resources to limit the access to the service delivery system. Therefore, all eligible people are not coming to our door but a segment of the eligible people. We are serving severely handicapped people first, so to speak, the context of the law.

Every State director in this country knows what order of selection is. Each State is different. Some States are getting more dollars from the Federal formula than other States based upon the per capita income of the individuals in the States and the population of the State.

My State is stable in population, has a high per capita income, though the increases that you see from year to year in the general appropriation might be 6 percent. We in Massachusetts would see an increase of 2 percent. There's a shift in population in this country to the south and southwest.

My point is each State is different. What monies it is able to allocate from its own resources is different. It's very difficult to make a simple statement about should a State be an order of selection or should it not. You really have to look at more indicators in that regard.

So the real question is resources. I think that also is one of the comments that one would make in terms of the new Directions document. I think the vision that it promotes is very appropriate to the times. It meets the expectations of people with disabilities in this country.

As a State director who is trying to keep my head above water and make sure we don't run out of money with the present people we have to serve, I would love to see an entitlement program because then I would not have to worry about resources anymore. I would welcome that. I don't know if this country is ready for that. I hope it is. But is it ready to do that today?

From another point of view, we see this country spending hundreds of billions of dollars to support dependents. If you were to add up all the money spent on SSI, SSDI, medicaid, medicare, mental health, mental retardation, in many ways we are supporting dependents.

On the other hand, we're only spending $2 billion to implement the Rehabilitation Act. The independent living portion of the Rehabilitation Act is so underfunded that we really haven't carried out any of the promise in the amendments of 1978 in any comprehensive fashion.

Yet, the Federal Government is able to put many billions of dollars into a savings and loan bailout. We're able to put many billions of dollars into a war in the Middle East, not to say those aren't important topics because they are. But I would contend people with disabilities are equally important, and we should be

making a similar type of commitment to people with disabilities as we have in some other very important areas.

Chairman OWENS. Speaking for yourself and your colleagues, do you find any problem with the thrust to have more consumer involvement, more official recognition of consumers, more empowerment of consumers?

Mr. BARTELS. None whatsoever. I think it's absolutely crucial at all levels. One can't carry out a voc rehab plan without the involvement and the commitment of a person with a disability to participate in it. They are key. The person with the disability is the answer to the problem not the problem. Likewise, at a policy-making level, people with disabilities are crucial to make sure that our State agencies are being responsive to their needs. I'm very comfortable with that, and I know my peers are comfortable with that.

Chairman OWENS. Mr. Peluso, at your national leadership summit conference you had representatives of the administration there at the beginning. Were they there at the end also? Did they endorse the visions? Were there any comments regarding the support of the administration with respect to those visions?

Mr. PELUSO. We didn't get a read, no, in terms of support from a fiscal point of view. Some of the concepts advanced. Our mission, as per Dart, Justin Dart, was to proceed in crafting a framework that really looked at issues of empowerment, really looked at issues of accountability, frankly, of utility of service.

Our views are not very different on the issue of consumer empowerment and, frankly, of resources. But what I would contend is that our current framework within which we operate as per the act in its current form doesn't institutionalize, if you will, doesn't validate a consumer role. We've proposed some recommendations on a Federal level of having the National Council on the Handicapped really look at some of the plans that come out on the Federal level. We're not seeing any coordination on the Federal level. We've not seeing any consumer oversight on the Federal level. On the State level, we recommend similar types of structures, if you will, where consumer involvement becomes an integral part of the service delivery system.

So as much as we hear the notion of consumers being really embraced, we don't have a structural framework. I believe the Directions platform begins to address that.

Chairman OWENS. I asked you if you had administration representatives support your visions at the end. I didn't mention fiscal, but you did. Since you mentioned fiscal support, did you discuss the fiscal implications of your visions?

Mr. PELUSO. We didn't get to that point. What we presented was our vision, our framework. Now that it's passed, frankly it is up to this committee and your body to begin to respond to that vision, begin to respond to that framework. We are anxious and willing to present our case to the administration. We need to mobilize, frankly, a commitment to Americans with disabilities so that we can talk in relative terms to an S&L bailout and a Desert Storm. In fact, to remove some of the levity, we didn't include one of our recommendations in terms of a name change for the Rehabilitation Act which was Disability Storm. We really need to bring that kind

of commitment to people with disabilities. As much as I appreciate levity, I felt a little constrained in my remarks because I am representing the leadership summit. But on a day-to-day basis, client assistance programs across this country deal with the fallout of, frankly, an inadequate system.

What I try to inject in many of the meetings that we've been having on the State level where we've finally committed to some interagency coordination—and finally Department of Labor knows what vocational rehab does—I try to interject a sense of passion because it's easy to talk about populations.

It's easy to talk about emerging disability groups. But when you're confronted with a person's life on hold on a day-to-day basis—I receive reams of paper on how our field people are assisting people through the process. Even I'm desensitized to the process.

When somebody's life is on hold because the system is slow, is bureaucratic, is really still very patronizing, the power of that is not appreciated, I think, by the people of America and by our leadership. I think we need to get in touch with that sense of frustration that is still very real. It's reflected both endemnically I think in the act and in our current service delivery system, but more broadly—and the framework it attempts to address on the local level—some of the issues that would really empower a system to really be responsive.

Chairman OWENS. Mr. Peluso, we very much like getting your words on the record. On this committee, you have some strong allies. Of course, you know that already, I'm sure. I haven't heard anybody come and propose a Community Action title in the last 30 years. I'm a former Community Action director, of probably the largest Community Action program in the country, New York City. I like your language. I like your visions, but I'm just one person. We are going to have to work together to sell people on the Hill a lot of your ideas. But before we do that, of course you know we've got to have that Disability Storm out there in the community. The voters out there have to be educated. We're going to have to do all this together.

The ADA bill was the first step. We did it. This is going to have a price tag on it. It's going to mean that a far more thorough job will have to be done in terms of education and mobilization. But you have some strong allies here.

Mr. Ballenger?

Mr. BALLENGER. I have no questions, Mr. Chairman.

Chairman OWENS. Mr. Payne?

Mr. PAYNE. I have no questions. I would just like to commend both of you for your outstanding testimony. I think Mr. Bartels has kind of affirmed what I said earlier in another way. I said that I think there was a lot of opposition to a strong ADA bill.

By that, I mean funding, as Mr. Peluso just brought out, the whole. When you forward an idea, then you ought to talk about all the things it takes, then, to make that idea work, come to fruition totally. If it's to give as much assistance to severely disabled as possible, to bring people back, rehabilitate them, and make them the productive citizens that they can be with a little support, that's what it really would take.

As the Chairman said, we've got to mobilize and educate. We can legislate. If people out there feel that it's something that they are willing to fund like Desert Storm or S&L Storm, Disability Storm could also be successful.

It's been indicated that with every dollar that we put in on prenatal care, we save $4.40 after the birth of a child. Statistics would indicate that $2 billion is being spent for rehabilitation and hundreds of billion dollars are being spent for dependency. If we can get less people dependent and more people rehabilitated, it seems like the amount should be shifted. Then we'd have people paying taxes, being productive, adding to our whole GNP. So I couldn't agree with you more.

As the Chairman indicated, I think all of the members of this particular committee, on both sides of the aisle, strongly support your agenda. It's just that we have to broaden our eight or ten people into hundreds of thousands of people who have the same goals and objectives. Thank you, Mr. Chairman.

Chairman OWENS. Thank you very much for your testimony. We look forward to working with you in helping to realize some of this. The subcommittee is now adjourned.

[Whereupon, at 11:40, the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

James S. Liljestrand, M.D.
President

Robert E. Brabham, Ph.D.
Executive Director

TESTIMONY

OF THE

NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

BEFORE THE

HOUSE EDUCATION AND LABOR SUBCOMMITTEE

ON

SELECT EDUCATION

ON THE

REAUTHORIZATION OF THE REHABILITATION ACT

September 26, 1991

P.O. Box 17675, Washington, D.C. 20041 • (703) 648-9300 • Fax: (703) 648-0346

This statement is submitted by the National Association of Rehabilitation Facilities (NARF). We thank Chairman Owens and the other members of the Subcommittee for allowing NARF the opportunity to offer its views on the reauthorization of the Rehabilitation Act of 1973, as amended.

NARF's membership includes over 800 vocational, medical and residential rehabilitation facilities and state associations serving the interests of hundreds of thousands of persons with disabilities each year. The membership ranges from highly sophisticated rehabilitation hospitals to multifaceted vocational facilities which train and place people with physical and/or mental impairments in employment. Their common purpose is to assist the people they serve to live with maximum independence and where possible to support themselves and their families.

In the afterglow of the passage of the Americans with Disabilities Act, the Rehabilitation Act stands as a logical next step to move persons with disabilities into self-support. It can be said that the greatest barrier to employment for persons with disabilities is discrimination. Since ADA was created to address this concern, we must now insure that persons with disabilities are adequately trained to overcome the next hurdle--employment in today's demanding job market. The Rehabilitation Act is just the vehicle to help train and place persons with disabilities into meaningful work activities and eventually employment.

For many years now, NARF has played a leadership role in assisting persons with disabilities into independence, utilizing the programs under the Rehabilitation Act. NARF and its members began to review the Rehabilitation Act nearly two years ago to determine what changes needed to be made to improve the system to benefit persons with disabilities and the providers that assist them. Since that time NARF has developed a position paper (attached) that we believe addresses some of the most basic concerns that we have with the Act.

In developing this paper NARF established two overriding priorities: 1) persons with disabilities should be afforded an opportunity to choose their road to independence through the Act; and 2) the highest possible percentage of Federal dollars must be appropriated for the direct provision of services that will lead persons with disabilities into employment.

NARF believes that a system must be established through this reauthorization to provide persons with disabilities the opportunity to make choices from a wide array of options and that once those choices are made, programs be properly funded to serve their needs. Today's scarce Federal dollars have restricted the choices available to persons with disabilities, such as selecting the provider they wish to work with in order to realize their dream.

Rehabilitation providers, State Agencies, and the Department of Education's Rehabilitation Services Administration have a long standing relationship of working together to see that this Act is properly implemented. However, this partnership must be expanded into the private sector in greater proportion to increase the choices available and to meet all the needs of persons with disabilities. With less dollars available on every level of government, an enhanced role for private providers will improve the program's cost-effectiveness by stretching scarce dollars, while serving many more individuals. Community-based rehabilitation facilities, whose Board of Directors are made up of community leaders and business persons, are ideal partners to help carry out this role.

Under the leadership of Rehabilitation Services Administration Commissioner Nell Carney, we have seen an increased emphasis on enhancing the partnership between the Federal and State agencies, rehabilitation providers, and consumers. This must continue through systems changes made to the Act. To ensure that this partnership be expanded systematically NARF recommends that there be an enhanced commitment of Section 110 funds for the direct provision of services to individuals. Section 110 funds are used by States for eligible expenses approved under State plans. The primary expenses include: administrative, counseling/guidance, and the direct provision of services or "purchase of services" for individuals, as well as other costs. Over the years the number of dollars earmarked for the direct provision of services for individuals has diminished, according to RSA figures. This translates into less dollars available to assist persons with disabilities wishing to be placed into work. NARF, therefore, recommends that the Act be amended to require that not less than 60% of Section 110 expenditures, including State matching funds, be expended on the direct provision of service for individuals in the first fiscal year following enactment and that this percentage rise to 65% and 70% in the succeeding two fiscal years. Allowing an increased percentage of Section 110 funds to go toward the direct provision of services for individuals, will enhance consumer options in choosing programs that will lead them to independence--the same choices that nondisabled people are afforded daily.

Another important provision of NARF's position paper is that States, in order to participate in the program, match all Federal funds available to them under the Act. The Rehabilitation Act is a statement of national policy for the commitment of services to eliminate and mitigate the effects of physical and/or mental limitations of individuals. However, the Act is structured to

provide a primary role for State government. Therefore, this national policy must have the financial commitment of all states. NARF recommends that the Act be amended to require that a State or other jurisdiction, qualified to receive Section 110 funds, be required to match fully such Federal funds as a condition of participation. States would be required to ensure in their State plans that the full match be forth coming and to demonstrate the financial capacity to provide such funds as a condition for receipt of funding for a given fiscal year. Failure to do so would constitute a determination by the State that it does not wish to uphold the national policy. This requirement will eliminate the need for reallocation of funds and will likely produce full funding of the program by each State as opposed to turning back millions of dollars each year.

A variance of payment of services provided 'by private rehabilitation providers has been of particular concern. Under the Act, State rehabilitation facilities have authority to determine rates of payment for services purchased from private facilities. States also have license to operate facilities. This produces two problems: 1) states, because of budgetary pressures, may impose rates of payment on private facilities which are below cost, leading facilities to either opt out of the program or find other funds to subsidize the cost of services to the clients; 2)some states pay very different rates for the same types of services depending on whether they are provided by State or private facilities.

In a period of declining resources and expanding public responsibility, State agencies, we submit, should purchase services at prices that are adequate to sustain service capacity and should treat all providers of services similarly. Accordingly, NARF proposes two recommendations for the amendment of the Act relative to payment for services.

The Act should be amended to require, as part of a State plan, that a State adopt uniform methods for determining payment for services provided to clients and that such methods be uniformly applicable to all providers of services, including both public and private entities. Further, such methods of payment should yield payments for services that are adequate to cover reasonable and necessary costs, including both capital and operating costs, of providing services. Title XIX of the Social Security Act (Medicaid) provides a model for such a provision. Section 1902(a)(13) provides that a participating State must make assurances satisfactory to the Secretary of HHS that rates of payment for services "are reasonable and adequate to meet the

cost which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations and quality and safety standards...." As is the case under Medicaid, the application of this standard should be subject to judicial review. We believe these changes will produce equitable and financially prudent use of private and public rehabilitation services, while ensuring that the capacity to provide services is maintained.

NARF admits that in drafting its position paper that the data available to us was incomplete and insufficient. NARF, therefore, recommends that the Act be amended to require that States file with RSA and publish an annual report on all expenditures of Section 110 funds including, but not limited to, expenditures for administrative costs, counseling, purchase of services, persons evaluated, persons served, type of services provided, and similar items. RSA should be required to report to Congress annually on the numbers of persons reported as rehabilitated, to include the number of such persons placed in competitive employment, those placed in sheltered employment, supported employment and/or the nature of placement of other persons listed as rehabilitated.

In addition, the Secretary of Education should be required to make at least a biannual evaluation of the States' administration of the Act based on performance criteria to be adopted by regulation. Such performance standards would be designed to assure that the requirements of the Act for the State plan are being met.

NARF also recommends that the Act address the staff shortages and training needs of providers that serve persons with disabilities. Rehabilitation providers in order to be full partners in helping to carry out this Act should be provided the support services they need from Federal and State agencies in order to help best serve persons with disabilities. NARF also agrees with the Department of Education's recent Notice of Proposed Rulemaking recommendation that "written minimum standards....must contain provisions for the use of qualified personnel by rehabilitation facilities and other providers of services in the provision of vocational rehabilitation services."

Finally, NARF believes that the term of reauthorization should be limited to three years. This will permit an early reassessment of the changes made to the Act and will allow reconsideration following the recent implementation of the Americans with Disabilities Act.

Statement From
THE NATIONAL REHABILITATION ASSOCIATION
to
THE SUBCOMMITTEE ON SELECT EDUCATION
U.S. House of Representatives
Hearing on
Reauthorization of the Rehabilitation Act of 1973
September 26, 1991

Reauthorization of the Rehabilitation Act of 1973 provides the House Subcommittee on Select Education, and indeed the entire Congress, with the opportunity to review and revise the most important piece of legislation aimed at economically and socially empowering Americans with disabilities.

This opportunity comes at a very important time in our history. The Americans with Disabilities Act (ADA), which recognizes and protects the civil rights of persons with disabilities to access public transportation, public accommodations and work sights, will be phased-in in January. In his State of the Union address, President Bush referred to the ADA as having "unshackled the potential of Americans with disabilities." And indeed, it can. But only if Congress follows through on the promises made in the ADA.

The most important promises are embodied in the Rehabilitation Act. The Act comprises our commitment to provide the evaluation, training, counseling and other support services necessary for persons with disabilities to achieve their fullest potential in the workplace.

The National Rehabilitation Association (NRA), the oldest and largest organization of rehabilitation professionals in the country, along with its various divisions, are eager to offer the skills, experience and expertise of its 18,000 members to help in this process. NRA represents persons at every stage and in every facet of rehabilitation in both the public and private sector. These include administrators, directors, evaluators, support staff, certified rehabilitation counselors, consumers, their families and other advocates for persons with disabilities.

This first hearing in the reauthorization process is an important beginning in the public debate that is necessary to renew this critical commitment to persons with disabilities. Chairman Major Owen's opening remarks at this hearing, which outlined the Committee's priorities in reauthorization, were inspiring. We heartily agree with his sentiments that more must be done to make vocational rehabilitation available and responsive to the needs of consumers. We are also pleased that the Committee is investigating ways to measure the long-term outcomes of vocational rehabilitation services.

The National Rehabilitation Association would like to emphasize what its leaders and its

thousands of members throughout the country concur are the most important needs in rehabilitation: resources that are sufficient to serve those who need rehabilitation services; and a mechanism to assure the quality of those services. It is especially important to bear these critical needs in mind while the Federal/State program is revised to make it more consumer-driven. If these basic needs are not addressed in reform, whatever is done may make little difference.

Forty-three million Americans have disabilities. Of these, an estimated 13.4 million are potentially eligible for services from the Federal/State vocational program. Yet there was funding to serve only 7 percent of these persons last year. This is the real problem in vocational rehabilitation.

Dr. Robert Davila, Assistant Secretary for Special Education and Rehabilitative Services, outlined the position of the Department of Education on reauthorization in his testimony. His proposals to improve accountability in the Title I program by requiring the development of evaluation standards and performance indicators based on outcome measures, and to provide for greater consumer choice, are laudable goals. NRA heartily supports them.

The most striking part of Dr. Davila's testimony, however, was the Department's proposal to phase-in an unspecified increase in the required State match. Such a proposal shows that Dr. Davila either does not know, or does not care about the dire straights of current state budgets, or how much federal money the states are already returning because they are unable to make the match under the current funding formula.

We were given no rationale for or explanation of the decision to shift greater burdens to the states. Rather, when questioned by Congressman Cass Ballanger about the basis for the new match, Dr. Davila replied simply that "Most federal/state matches are 50/50."

This is not true. Even if it were, it is simply not an answer.

The NRA adamantly opposes any increase in the financial burden that states would have to bear to continue providing rehabilitation services.

We are currently conducting a study of how much money state rehabilitation agencies have had to release during fiscal year 1991. The results of this study will document the severe problem that already exists, a problem which will only be exacerbated by a further shifting of financial responsibility. We will communicate the results of this study to the Committee as soon as they are available. It is crucial that Members have this information as they make the difficult decisions they face in reauthorizing the Rehabilitation Act.

The testimony presented by Franklin Frazier, Director of Education and Employment Issues in the Human Resources Division of the Government Accounting Office (GAO), revealed that only 12 states have implemented order of selection to funnel scarce rehabilitation resources to those with severe disabilities. This deficiency was portrayed as "civil disobedience," as if

service providers were plotting to violate the law. Such a characterization implies that rehabilitation professionals in state agencies are mean-spirited or at best uncaring. It insinuates that they have a hidden agenda, that they scheme to make their own lives easier at the expense of persons with severe disabilities. This characterization is extremely unfortunate. In fact, nothing could be further from the truth.

The vocational rehabilitation system that is funded by the Federal/State program can and should be improved. But the people who serve on the front lines of this system include some of the most committed, caring and hard-working professionals in any field of public service. The vast majority of these people have forfeited higher salaries for the personal rewards that come from helping those who need it. They do not seek to defy the law. Rather, they struggle with the intractable problem of having inadequate resources to meet a tremendous need.

Perhaps the most important discovery in the GAO investigation is the fact that the number of clients with severe disabilities who are served by the Federal/State program has increased by 45 percent since 1976.

A crucial component that was missing from the GAO report was documentation of the relative costs of serving persons with more severe and less severe disabilities. It is logical and intuitive that persons with greater disabilities will require considerably more support to become and stay employed. Yet this critical factor was not even discussed in the report. This serious omission leaves a false impression that rehabilitation costs are the same regardless of the severity of disability.

It is impossible to make wise decisions about how to spend the limited resources authorized by the Rehabilitation Act without this information. Given that such services will never be available to all of those who could benefit from them, decisions about who does and does not have access to them should be guided by the best and most complete information available. The National Rehabilitation Association strongly recommends that a clear definition of "severe disability" be developed during reauthorization of the Rehabilitation Act. NRA also recommends that the Committee request from the Rehabilitation Services Administration (RSA) information on order of selection that examines the relationship between the severity of disability and the cost of rehabilitation.

Related to the basic problem of limited resources is the fact that many state programs try to reconcile the imbalance between inadequate funding and the overwhelming need for services by hiring persons to serve as rehabilitation practitioners who are not qualified. In one state, for example, the only requirement to get hired as a rehabilitation counselor is a high school diploma. In fact, that state's rehabilitation program has not hired a counselor with a master's degree in years.

Rehabilitation is a complex process. Those who administer rehabilitation programs and those who provide rehabilitation services should be well trained and highly qualified in their field. This is not just an abstract desire to insure that persons with disabilities are served by

professionals as skilled and well trained as those who provide services to persons without disabilities. It is what is required to guarantee the quality and efficacy of rehabilitation services.

This clear relationship -- between the professional qualifications of the rehabilitation counselor and the outcome of vocational rehabilitation services -- has been repeatedly documented through research.

A study of counselors employed by the New York State Office of Vocational Rehabilitation and their clients whose cases were closed showed that:

> For clients with severe disabilities, counselors with master's degrees in rehabilitation counseling achieved significantly better outcomes than their counterparts with bachelor's and unrelated master's degrees....[1]

A similar study of counselors in the Maryland Division of Vocational Rehabilitation and their clients also found that:

> ...Maryland DVR counselors with master's degrees in rehabilitation counseling have higher rates of competitive outcomes and are more cost efficient than their colleagues with unrelated bachelor's and master's degrees in their service to people with severe disabilities.[2]

And in Wisconsin, one of the states that does not have educational requirements for employment as a rehabilitation counselor, it was found that:

> ...counselors with master's degrees in rehabilitation counseling or related master's degrees demonstrate better rehabilitation outcomes with clients with severe disabilities than do their colleagues with unrelated bachelor's or master's degrees or less than a bachelor's degree education.[3]

The results of this research are clear and consistent: the better educated and more

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[1]Szymanski, E. M. and Parker, R. M. Relationship of rehabilitation client to level of rehabilitation counselor education. Journal of Rehabilitation, December 1989, pp. 32 - 36.

[2]Szymanski, E.M. and Danek, M. M. The relationship of rehabilitation counselor education to rehabilitation client outcome: A replication and extension. Journal of Rehabilitation, in press.

[3]Szymanski, E.M. Relationship of level of rehabilitation counselor education to rehabilitation client outcome in the Wisconsin Division of Vocational Rehabilitation. Rehabilitation Counseling Bulletin, September 1991, pp. 23 - 37.

qualified the rehabilitation counselor, the more successful is rehabilitation outcome. This relationship is especially strong for clients who have severe disabilities. (Copies of these research reports are attached to this statement.)

It is obvious that the current requirement in the Rehabilitation Act that state agencies employ only "qualified rehabilitation professionals," has not been obeyed, understood, or enforced, to the detriment of consumers, especially those with severe disabilities. This serious deficiency must be remedied.

The National Rehabilitation Association strongly recommends that the Act require state agencies to employ only "qualified rehabilitation professionals," to be defined as "eligible for licensure or certification for their respective professional responsibilities" or other similarly stringent requirements as developed by the RSA Commissioner.

The NRA recommends the Act require the RSA Commissioner, within 24 months after passage, to promulgate standards that define the requirements of "qualified rehabilitation professionals" employed by state rehabilitation agencies.

In the absence of clear standards for qualified professionals, our member have reported that many people involved with rehabilitation seem to presume that "consumer-driven" means that having a disability is both the necessary and sufficient qualification for providing rehabilitation services. This is a very dangerous concept.

This kind of attitude is insulting to persons with disabilities because it implies that delivering services to others with disabilities is all that these persons are qualified to do. In fact, the basic premise of vocational rehabilitation is to open up a world of opportunities to persons with disabilities. If properly served by the Federal/State program, persons with disabilities ought to qualify for and be able to obtain a variety of different jobs.

This kind of attitude is also hurtful and demeaning to those professionals without disabilities who have devoted their careers to providing rehabilitation services.

Vocational rehabilitation is not like Narcotics Anonymous. It is a complicated and highly technical profession that requires specific education and training. Those minimum educational and training requirements should be assured during reauthorization of the Rehabilitation Act.

The National Rehabilitation Association appreciates this opportunity to submit testimony for the record in this first hearing on reauthorization of the Rehabilitation Act. We have appended to this statement a copy of NRA's recommendations for reauthorization. We pledge to do all we can to help in this difficult but important task.

National Rehabilitation Association

Recommendations on Reauthorization of the Rehabilitation Act

1991

Introduction

The importance of our nation's human resources is self-evident. However, we currently spend over $200 billion annually to keep persons with disabilities in a dependent state, but only a small fraction of that amount for rehabilitation programs and services. This causes a drain on our country's fiscal resources and, more importantly, denies opportunity and productivity for millions of Americans with disabilities.

The passage of the Americans with Disabilities Act of 1990 (ADA) has demonstrated our recognition of the rights of people with disabilities to participate fully and equally in all aspects of life. President George Bush stated during his signing of the ADA on July 26, 1990, that "every man, woman and child with a disability can now pass through the once-closed doors into a bright new era of equality, independence and freedom."

The National Rehabilitation Association (NRA) believes the full participation guaranteed by the passage of ADA will only be realized with continued improvements to and expansion of America's rehabilitation service delivery systems.

Congress has long realized the importance of providing programs and services to enable persons with disabilities to become part of mainstream American life. This responsibility and authority has been in part given to the state-federal vocational rehabilitation program as authorized by the Rehabilitation Act of 1973 and its subsequent amendments. The Rehabilitation Act holds out the promise of independence and productivity for millions of American citizens with disabilities, creating high expectations for success and integration.

Due to inadequate resources, the promises and expectations inherent in the Rehabilitation Act have never been fully implemented or realized. This fissure between expectations and implementation has resulted in numerous problems for the rehabilitation service delivery system which must be addressed during this reauthorization period.

We believe the most significant problem currently facing the rehabilitation service program is the inability to serve all who are eligible. Simply, the system does not now have the capacity to equitably serve all persons that expect to benefit. Clearly, the human and fiscal resources allocated to assist persons with disabilities are available to only a fraction of those requiring these services. The Lou Harris poll documents that two-thirds of Americans with disabilities between the ages of 16 and 64 are not working. The Poll also notes that Americans with disabilities are woefully excluded from a variety of community activities due to inadequate independent living services. The forced exclusion of millions of people with disabilities from receiving services is a cost we can no longer afford or endure.

NRA believes that all titles of the Rehabilitation Act, including Independent Living, are critically important and the maximum possible level of resources should be committed to providing or purchasing rehabilitation services for persons with disabilities. The NRA also believes that services must be provided with minimal administrative costs in order that maximum resources be available to serve persons with disabilities.

NRA proposes the following recommendations to address some of the most crucial problems inherent in the current Rehabilitation Act:

Commitment to Inclusion

Consumer involvement and participation must be guaranteed. NRA recommends the Act require each state vocational rehabilitation agency to have a single advisory council for all programs operated under the authority of the Act. This council should be appointed by the state director and be comprised of a majority of individuals with disabilities. The Act should clearly delineate the roles, authority and responsibilities of this council to include, but not be limited to: long range planning, policy development, program evaluation, staff recruitment and selection, outreach, ombudsmanship and grants development and review. The state plan for vocational rehabilitation services must reflect and mandate these functions.

Explanation: The creation of a single, comprehensive, advisory council will avoid a proliferation of single-issue advisory groups and will help promote continuity of services between and among the various aspects of the state agency service delivery system. Inclusion of persons with disabilities, to constitute a majority of members, is consistent with well established patterns for similar advisory groups.

Commitment to Excellence

The Rehabilitation Act must ensure services provided to persons with disabilities are of the highest quality possible.

1. NRA recommends that the Act require that state agencies employ only "qualified rehabilitation professionals", to be defined as "eligible for licensure or certification for their respective professional responsibilities" or other similarly stringent requirements as developed by the Commissioner of RSA.

NRA recommends the Act require the Commissioner of the Rehabilitation Services Administration (RSA),

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within 24 months after passage, to promulgate standards that define the requirements of "qualified rehabilitation professionals" employed by state rehabilitation agencies.

Explanation: The Rehabilitation Act clearly references "qualified rehabilitation professionals" as a requirement for compliance with the Act. Rather than attempt to include complicated definitions of various rehabilitation professionals, within the reauthorization language, NRA believes that RSA should be required to act within a reasonable period (24 months). This requirement will further allow various professional organizations the opportunity to submit proposed requirements to RSA.

2. NRA recommends the Act specify a date certain (not to exceed the reauthorization period) after which only qualified rehabilitation professionals could be hired by state rehabilitation agencies.

Explanation: NRA recognizes that the move to hiring only qualified rehabilitation professionals will require a reasonable transition period to allow personnel systems to reflect the newer, tougher professional requirements for rehabilitation personnel. NRA does not, however, apologize for demanding that persons served by rehabilitation organizations should expect to receive those services from qualified providers.

3. NRA further recommends that RSA require states to specify in their state plans how they will upgrade the qualifications of those persons employed in the state rehabilitation agency who do not meet the requirements of a qualified rehabilitation professional.

Explanation: It was clearly the intent of the Rehabilitation Act that persons served under the Act be served by qualified personnel. Agencies should be working toward that objective for all staff, not just new hires.

4. Natural attrition as well as current staffing shortages require an aggressive effort on the part of RSA to assist states in the recruitment and training of rehabilitation professionals. NRA recommends a substantial increase in the authority currently allocated to training. NRA further recommends that the term "Training Authority" in the Act be changed to "Human Resource Development Authority."

Explanation: Survey after survey from rehabilitation settings (public and private) indicate a large proportion of rehabilitation staff are eligible to retire from current settings within the next 3-5 years (some estimates range up to 50%). Replacement and growth needs demand major attention be given to the training authority.

5. NRA recommends the Act require the establishment of an advisory committee to the Commissioner of RSA and/or advisory committees to RSA Regional Commissioners on Human Resource needs. The membership of these committees should be representative of the rehabilitation community, consumers and employers.

Explanation: Such an advisory committee would give national visibility to this critical area.

6. NRA recommends the Act require the Commissioner to develop and promulgate by regulation program performance standards that all states would be required to meet. These standards should include, but not be limited to, access to services, services received, and outcomes and should be sensitive to:

- gender, race, ethnicity
- disabilities represented
- socioeconomic status
- rural/urban distribution

These standards should be promulgated within 24 months following reauthorization.

Explanation: Taxpayers increasingly expect to see measures of "performance" as an indication of their investment in public rehabilitation. This concept has been discussed for decades and should now become part of the accountability for public programs.

7. NRA recommends the Act require RSA to work collaboratively with NIDRR, NIH, the Office of Special Education and other federal agencies to establish research centers to address emerging service needs in rehabilitation. The purpose of these centers should be to strategically prepare rehabilitation professionals to provide effective and efficient services to populations not formerly surviving birth and/or infancy. This research should include but not be limited to at-risk infants ("crack", fetal alcohol syndrome, HIV and low birth weight babies) and others whose developmental processes are known to be impacted with resulting challenges to activities of daily living, self care, education and employment.

Explanation: Today's at-risk infants will become tomorrow's referrals to rehabilitation programs. By involving other agencies early in this process, the opportunities for successful rehabilitation strategies in the future will be expanded.

Expansion of Capacity

Capacity must be substantially expanded to meet the increasing demands on the federal-state rehabilitation program.

1. The authorization levels of the Rehabilitation Act must be increased substantially from current authorization levels based on identified unmet needs.

Explanation: Rehabilitation continues to be an investment in America's future. Current authorization levels simply do not allow for the levels of services needed.

2. NRA Association recommends the Act require RSA to further refine its uniform data collection system for state programs regarding the allocation of costs.

Explanation: There continue to be inconsistencies in definitions and understanding of terms as evidenced by, for example, "administrative costs" ranging from less than 2% to more than 45% in RSA reports.

3. NRA recommends the Act allow states, with monies left unobligated from their allotment at the end of the fiscal year, to carry those monies forward for expenditure in the succeeding fiscal year.

Explanation: Good management dictates that current "spend-or-lose" requirements do not best serve persons with disabilities and that administrators need the flexibility to plan wisely for services without the artificial constraints of federal fiscal year cycles.

4. NRA recommends that the Act require states or other jurisdictions qualified to receive matchable Federal rehabilitation funds be required to match fully such funds as a condition of participation. States would be required to insure in their state plans that the full match will be forthcoming and to demonstrate the financial capacity to provide such funds (through evidence of appropriation or similar documentation) as a condition for receipt of federal funds for a given fiscal year.

Explanation: At the latest estimate, 43 of the states have or anticipate budget shortfalls or actual deficits. Increasingly it will be tempting for legislative or budget authorities to reduce rehabilitation budgets accordingly. To help remove this option from the state budget process, such a provision would protect rehabilitation funding. There are other federal grants with similar provisions. This also recognizes the increasing empowerment of people with disabilities, along with rehabilitation providers, to continue state appropriations in financially difficult times, especially with this incentive.

5. NRA recognizes the critical need for service systems to provide extended supported employment follow-along and personal assistance services. NRA recommends that Congress address these urgent issues through new, alternative legislation rather than solely through the federal/state vocational rehabilitation program.

Explanation: Rehabilitation agencies cannot, and should not, be expected to be "all things to all people at all times." These highly legitimate needs must become the responsibility with other providers. Expecting rehabilitation agencies to provide such a diverse range of services (but within major budget constraints) serves to create frustrations and conflicts as expectations are not satisfied.

Facilitating Amendments

In order to implement the proposed changes recommended by NRA and to give adequate time for evaluation, we recommend a five-year reauthorization period.

Explanation: Considerable efforts will be required to implement qualifications, performance standards, funding provisions and companion legislation. Therefore sufficient time for evaluation is needed. A five year reauthorization also allows for stability and continuity of effort.

OSERS RESPONSES TO QUESTIONS FROM CONGRESSMAN OWENS

Federal-State Programs

Q: **According to a recent GAO report, the Administration (when monitoring State programs) does not assess States determinations about whether they can serve all applicants and therefore, whether they must use order of selection. What policy changes in monitoring and evaluation of State programs are proposed to address this lack of Federal guidance?**

OSERS agrees with the recommendations of the recent GAO draft report that there is a need to issue further guidance to State agencies on the use of an order of selection. A revised Manual Chapter outlining policy requirements for the implementation of an order of selection is currently under review. In addition, RSA will disseminate examples of State procedures that have been determined to be in full compliance with Federal requirements for the implementation of an order of selection so that States can have a ready reference should the need arise to implement an order of selection.

RSA will provide training to Regional Office staff to assure a consistent understanding of order of selection requirements across the regions. This training will include criteria to assess when a State agency should implement an order of selection for services. Regional Office staff will be required to closely monitor both caseload and financial data provided by State agencies to identify the need for an order of selection. Regional Office staff will then provide technical assistance and guidance to State agencies on the appropriate implementation of an order of selection for services. This will be accomplished during FY 1992.

Q: Careers, rather than dead-end jobs, is a major philosophical difference between current rehabilitation practice and this next decade of nondiscrimination in the work force as set forth in ADA. How does RSA plan to make this shift?

A: There is no doubt that the ADA will encourage additional employment opportunities for individuals with disabilities. State VR agencies can be a great resource to employers in addressing the reasonable accommodation needs of individuals with disabilities at the work place.

Traditionally, the VR program has placed emphasis on suitable employment consistent with an individual's capacities and interests. We do not anticipate this will change as the result of ADA. If appropriate vocational assessments are conducted and career guidance, counseling, and other substantial rehabilitation services are provided to an individual with a disability, that individual has the opportunity to progress in his or her career in the same manner as any individual who is not disabled.

When an Individualized Written Rehabilitation Program (IWRP) is jointly developed between a VR counselor and an individual with a disability, the need for additional education is explored, as appropriate, to enhance the individual's opportunity to achieve a suitable vocational objective. The Administration's bill will recommend changes to the IWRP requirements to further increase the individual's involvement in the development of the IWRP to enhance client control in directing the rehabilitation process and selecting an appropriate career.

RSA is addressing the needs of individuals who are underemployed. In the Administration's reauthorization proposal, we intend to include a new authority under the Projects With Industry (PWI) program to assist individuals who are underemployed to gain the skills and knowledge necessary to compete in the changing economy. We have also proposed a funding priority for FY 1992 for the PWI program to train and place individuals with disabilities into career ladder positions or other entry-level positions having promotion potential. In addition, the VR program has traditionally provided upward mobility training for vendors under the Randolph-Sheppard Vending Facilities Program.

Q: **What alternatives to "closure" is RSA studying? When will alternatives to this quality assurance method be implemented? Under a career-oriented approach, how will quality assurance be measured?**

The Administration's bill will amend Title I to require the development and implementation of evaluation standards and performance indicators based on outcome measures. Alternative outcome measures such as earnings, job retention, and type of placement will be considered in the development of such standards and indicators.

In addition, RSA is beginning a comprehensive longitudinal study of the VR program in FY 1992. This study will provide an opportunity to review the types of services provided and outcomes -- both economic and noneconomic -- under this program. We hope that the results of this multi-year study will provide a better basis for determining if we should assess gains, other than employment, as outcomes of the VR program.

Q: **Does the administration recognize any viability in the voucher system notion? Could this be an alternative that would stimulate competition and quality from the private sector as well as substantially reduce administrative costs?**

The Administration's proposal for reauthorization will include a demonstration program to assess the effectiveness of increasing client choice, and vouchers will be included within the scope of the authority. This new authority will include strong evaluation and dissemination features so that the Department can assess the viability and replicability of various approaches. We expect to structure the demonstrations so that a high proportion of total funds is devoted to the purchase of goods and services for clients. Overhead or administrative costs would be sharply limited. If certain methods to increase "choice" in the selection of VR services and providers prove successful and their outcomes can be successfully replicated, these methods could then be incorporated by Congress and the Administration into the basic VR program.

Timely Delivery of Services

Q: **How does the Federal government intend to encourage State agencies to eliminate unnecessary evaluations in order to improve the timely delivery of services?**

A: The timely delivery of services is an important issue and one that the Department is addressing in a variety of ways. For example, RSA is monitoring State agencies' case practices through the use of a uniform case review instrument. The results of these reviews yield information to assess service delays.

We are aware of the concerns expressed by the New York VR agency regarding the elimination of unnecessary evaluations for individuals who have a history of drug abuse and are seeking VR services. OSERS is reviewing this situation and will respond to the agency in the near future.

It is important to note the value of a comprehensive evaluation prior to the implementation of a plan of services. Unsuccessful case closure often results from a lack of appropriate upfront assessments of the nature and scope of the disability or disabilities, the resulting functional limitations, and other issues that must be addressed in order to assist an individual to become employed.

This issue is being examined in our Evaluation of Vocational Assessment and the IWRP Process. We expect the final report, due at the end of this year, will provide some valuable clues for helping vocational rehabilitation agencies increase both the effectiveness and the timeliness of their rehabilitation services.

Independent Living Centers

Q: I would like to know the status of the Independent Living Center Indicators. Please verify the following information regarding the development of Indicators for the Title VII Part B Centers and the subsequent open competition for Part B funding. There was wide spread agreement that there would be no new competition for Centers without evaluation, and no evaluation without the Indicators, based upon the Standards approved by the National Council on Disability. I am assuming that the Indicators will be field tested and the date for the competition will be set to ensure that Centers for Independent Living will have sufficient time to respond to them. In any case, open competition will not occur in Fiscal Year 1992-1993. I also assume that the Commissioner will conduct onsite compliance reviews prior to the open competition as required by Law. Are these assumptions correct?

A: The Department is completing work on a draft Notice of Proposed Rulemaking (NPRM) that includes the IL indicators. We expect to publish the NPRM for public comment within 60 days, and have final regulations in place by June, 1992. The issuance of the IL indicators has been delayed because the original standards, as developed by RSA and approved by the National Council on Disability (NCD), contain elements that are not measurable, would better be addressed through regulation or application procedures, and go beyond the statute. OSERS has found it necessary to revise the standards in order to develop appropriate performance indicators. It is our intent to seek NCD approval of the revised independent living standards, prior to finalization.

Although the Department planned to hold an open competition for the Centers for Independent Living program in 1992, Congress has mandated continued funding in FY 1992 for existing grantees in the FY 1992 Appropriations Act. The Department still plans to hold an open competition in FY 1993. The Department does not agree that it is necessary to further evaluate the centers or to have the evaluation indicators in place prior to a competition. Section 711(g)(3) requires that new grant awards be made on a competitive basis and include consideration of past performance, where appropriate. The Department has been evaluating centers based on the section 711(c)(3) criteria, the program regulations at 34 CFR Part 366, and the goals, objectives, and conditions of their approved grant applications. This information and any data on the indicators would be but one factor considered in the selection of new grantees. Performance on a prior grant is not one of the selection criteria for making new awards. The projects are selected based on what they are proposing

to do. Past performance may be considered only if all else is equal among applicants.

OSERS does not plan to field test the Indicators. As the Indicators are to a large extent based upon the original standards that Centers have been using since 1985, we do not think that field testing is necessary. In addition, the original standards and the revised package were developed with the input of the centers and other experts in the field of independent living. We do not expect the indicators to contain any technical ambiguities or unfamiliar requirements that would warrant a field test. Public comment received during the rulemaking process should identify any areas of concern. Such issues can be addressed or clarified in the development of the final indicators rather than through field testing. We had experience in the implementation of indicators under the PWI program. The PWI Indicators were not field tested, and no problems have resulted from the lack of field testing.

RSA has been conducting on-site reviews of IL centers using a uniform instrument based upon the A-K elements identified in section 711(c)(2) of the Act. In compliance with section 711(f)(3), RSA has completed on-site reviews of one-third of the grantees under this program. The monitoring instrument will be revised to incorporate the independent living indicators once the indicators are finalized.

Projects with Industry

Q: **Do PWIs truly incorporate individuals with disabilities into integrated work environments? If so, do they represent "best practices" for employers looking for models of accommodation in compliance with the ADA?**

A: The primary objective of the PWI program is to assist individuals with disabilities to obtain competitive employment. Program regulations (34 CFR 379.4) define competitive employment as productive full-time or part-time work in business or industry at a rate of compensation at least equal to the applicable minimum wage. The type of placements vary significantly. Jobs obtained under the program generally range from service type positions to those that are highly technical or managerial. Examples of successful projects include: (1) training individuals for jobs in data processing and computer technology at IBM; (2) placement of individuals in the electronics industry at the Electronic Industry Foundation; and (3) training individuals for jobs in unionized fields by the Human Resources Institute of the AFL/CIO and International Association of Machinists. We do not, however, have any specific data available since placement in an integrated work environment is not an element under the performance indicators for this program.

Over the past two years, RSA has conducted a self-nomination process for programs that increase competitive employment opportunities for individuals with disabilities. Several PWI projects were identified by a work groups of RSA staff and outside consultants as exemplary. One such program is operated by the Human Resources Center in Albertson, New York. A listing of these projects is attached. (NOTE: A copy of IM-91-03 was provided to Congressman Owens.) We offer these projects as models for providing assistance to employers on accommodations for individuals with disabilities at the work place.

The Administration's bill will contain a new PWI authority to focus on underemployed persons with disabilities. This will be a model demonstration program and will include evaluation and replication features.

Client Assistance Program

Q: **As a part of a new career orientation, would the administration favor CAPs making their services available to former clients?**

A: Client Assistance Programs (CAP) currently work with former clients in the following circumstances: (1) former clients seeking post-employment services; (2) former clients seeking to re-open a case due to changes in the disabling condition or changes in work status; (3) former clients placed in extended employment who are subject to the requirements in 34 CFR 361.58 regarding periodic review and re-evaluation; and (4) former clients who are placed in supported employment and are having problems with extended service providers. RSA's guidance to CAPs has been that CAP services are available to former clients with regard to issues that are directly connected to their Individualized Written Rehabilitation Program as developed prior to case closure.

Choice of Services

Q: **Is it not contradictory to say you will increase consumer choice through the Individualized Written Rehabilitation Program (IWRP) yet at the same time propose changes in Title I regulations that would no longer require giving a copy of the IWRP to the client?**

A: The present Act does not include the requirement that a copy of the IWRP be given to the client. The Title I NPRM published in July simply proposed dropping the nonstatutory requirement from the regulations, consistent with the principle that all regulatory requirements should have a basis in law.

However, the Department has always believed that best practice would call for providing a copy of the IWRP to the client. Additionally, based on the substantial negative public comment about this proposed removal, it is doubtful any change will be made to the current regulations affecting this provision.

ISBN 0-16-037196-1